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Commercial Bank of Canada vs. The Great Western Railway Company.

Upper Canada.

IN THE QUEEN'S BENCH.

The case of

THE COMMERCIAL BANK OF CANADA,

PLAINTIFFS,

VERSUS

THE GREAT WESTERN RAILWAY COMPANY,

DEFENDANTS.

COUNSEL FOR PLAINTIFFS:

HON. J. H. CAMERON, Q.C., M.P.P.; HENRY ECCLES, ESQ., Q.C.; THOMAS GALT, ESQ., Q.C.;
SIR HENRY SMITH, Q.C.; ADAM CROOKS, ESQ.; A. J. McDONELL, ESQ.; JAMES
O'REILLY, ESQ.

COUNSEL FOR DEFENDANTS:

M. C. CAMERON, ESQ., M.P.P.; EMILIUS IRVING, ESQ.; H. C. BECHER, ESQ., Q.C.; JOHN
ROAF, ESQ.; J. J. BURROWES, ESQ.; and Messrs. EMMONS, GRAY, and JEROME,
of the Michigan Bar.

REPORTED BY W. BUCKINGHAM, (SIMCOE, C.W.)



TORONTO:

W. C. CHEWETT & CO., PRINTERS, 17 & 19 KING STREET EAST.

1862.

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Upper Canada.

IN THE QUEEN'S BENCH.

THE COMMERCIAL BANK OF CANADA,

PLAINTIFFS,

VERSUS

THE GREAT WESTERN RAILWAY COMPANY,

DEFENDANTS.

COUNSEL FOR PLAINTIFFS:

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O'REILLY, ESQ.

COUNSEL FOR DEFENDANTS:

M. C. CAMERON, ESQ., M.P.P.; EMILIUS IRVING, ESQ.; H. C. BECHER, ESQ., Q.C.; JOHN
ROAF, ESQ.; J. J. BURROWES, ESQ.; and Messrs. EMMONS, GRAY, and JEROME,
of the Michigan Bar.

REPORTED BY W. BUCKINGHAM, (SIMCOE, C.W.)



TORONTO:

W. C. CHEWETT & CO., PRINTERS, 17 & 19 KING STREET EAST.

1862.

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In the Queen's Bench.

County of Frontenac, one
of the United Counties
of Frontenac, Lennox
and Addington.

TO WIT :

THE COMMERCIAL BANK OF CANADA,

Plaintiffs.

vs.

THE GREAT WESTERN RAILWAY COMPANY,

Defendants.

The Twenty-fifth day of March, in the Year of our Lord 1862.

(Plead-
ings.)

The Commercial Bank of Canada, by John Alexander McDonald, their Attorney, sue the Great Western Railway Company, who have been summoned by virtue of a Writ issued on the eighth day of March, in the year of our Lord one thousand eight hundred and sixty-two.

For, that heretofore, and at the time of the commencement of this suit, the defendants were, and are, indebted to the plaintiffs in the sum of one million five hundred thousand dollars:—for money payable by the defendants to the plaintiffs—for money lent by the plaintiffs to the defendants—for money paid by the plaintiffs for the defendants, at their request, for interest upon and for the forbearance at interest by the plaintiffs to the defendants; at their request, of moneys owing from the defendants to the plaintiffs—and for work and labour and services rendered by the plaintiffs for the defendants, at their request—and for money found to be due from the defendants to the plaintiffs, on accounts stated between them; and the plaintiffs claim one million five hundred thousand dollars.

The First day of April, in the year of our Lord 1862.

And the defendants, by Amelius Irving, their Attorney, say they are not indebted as alleged.

The Second day of April, in the year of our Lord 1862.

The plaintiffs join issue upon the Defendants' plea.

Therefore, let a Jury come, &c.

(Particulars of claim.)

DETROIT AND MILWAUKEE RY. CO. AC. GREAT WESTERN RY. CO.

1857.						\$	a.	Dr.	
Dec'r 30	...	...	...	...	...	£2,500	0 0	Dr.	£2,500 0 0
1858.									
Jan'y 2	Cheque	...	...	...	...	\$10,000	00	Dr.	\$10,000 00
18						19,000	00	Dr.	29,000 00
Feb'y 1	D. & M. dft on London Board G. W. R.	£6,000	stg.	...	...	29,066	66	Cr.	36 66
8	Cheques	...	...	...	...	16,839	19	Dr.	16,472 53
9	"	...	...	...	...	21,872	76	"	38,345 29
15	"	...	...	...	...	8,000	00	"	46,348 29
16	D. & M. acceptances	...	...	...	...	19,344	12	"	65,689 41
16	Proceeds of notes	...	...	...	...	...	...	"	45,985 30
18	Deposits	...	...	...	...	...	...	"	45,982 00
19	Balance of disct on notes credit 16th	...	...	...	...	359	99	"	46,342 09
20	Drafts on New York and exch.	...	...	...	...	3,395	13	"	49,737 22
23	Cheques	...	...	...	...	601	40	"	50,338 62
27	"	...	...	...	...	16,194	46	"	66,533 08
March 1	D. & M. draft on London Board G.W.R.	£15,120	16 7 stg.	...	...	73,000	00	Cr.	6,466 92
2	Draft on New York and exch.	...	...	...	...	8,910	99	Dr.	2,444 07
9	Deposits	...	...	...	...	1,043	70	"	1,400 37
10	Freight on draft on New York	...	13 56	...	...	1,369	96	"	2,770 33
10	D. & M. draft	...	1,356 40	...	...	11,370	24	"	14,140 57
12	Draft on New York and exchange	...	...	...	...	11,110	00	"	25,250 57
15	"	...	...	...	...	35,000	00	"	60,250 57
16	Cheques	...	...	...	...	5,000	00	"	65,250 57
20	Cheque to Michigan Ins. Coy	...	...	...	...	13,184	40	"	78,434 97
20	Draft on New York and exch.	...	...	...	...	5,165	48	"	83,600 45
22	"	...	...	...	...	2,689	08	"	86,289 53
24	"	...	...	...	...	...	...	"	20,289 53
25	Draft on London Bd. G. W. R.	£13,750	stg.	...	...	66,000	00	"	22,278 24
30	D. & M. draft	...	...	...	...	1,988	71	"	24,776 26
30	Draft on New York and exch.	...	...	...	...	2,498	02	"	26,796 28
31	Cheques	...	...	...	...	2,020	09	"	40,035 78
31	Draft on New York and exch.	...	...	...	...	13,239	52	"	60,035 78
14	Cheque to C. H. Malourens	...	...	...	...	20,000	00	"	65,906 88
20	Draft on New York and exch.	...	...	...	...	5,871	10	"	62,876 88
22	Draft on Mich. Ins. Bk.	...	...	...	...	3,330	00	"	58,875 52
23	Draft on Mich. Ins. Bk.	...	...	...	...	4,001	36	"	67,878 91
25	Deposits	...	...	...	...	996	61	"	68,848 91
26	Draft on Mich. Ins. Co.	...	...	...	...	3,030	00	"	52,860 20
28	"	...	...	...	...	1,988	71	"	52,929 82
29	Com. on draft	...	...	...	...	69	62	"	21,404 82
May 1	G. W. R. Co. on London Board, £5,500	stg.	...	...	...	31,525	00	"	31,561 34
1	Cheques	...	...	...	...	10,156	52	"	31,591 34
2	Exch. on drafts	...	...	...	...	30	00	"	33,454 64
4	Cheque for draft on New York and ex.	...	...	...	...	1,863	30	"	36,484 64
8	"	...	...	...	...	3,030	00	"	38,484 64
10	Cheques	...	...	...	...	2,000	00	"	68,484 64
12	"	...	...	...	...	30,000	00	"	73,534 64
14	"	...	...	...	...	5,060	00	"	75,134 64
15	"	...	...	...	...	1,600	00	"	55,494 63
17	Proceeds of note	...	...	...	...	...	...	"	55,134 64
17	Interest credited G. W. R. Co. in error 19th Feb.	...	...	...	...	...	...	"	75,134 64
17	Cheque	...	...	...	...	20,000	00	"	75,574 64
19	Coupons	...	...	...	...	440	00	"	68,974 64
21	Cheques on Mich. Ins. Coy	...	...	...	...	...	...	"	103,937 06
22	Cheques	...	...	...	...	34,962	42	"	103,179 88
25	Deposits	...	...	...	...	...	...	"	102,739 88
26	Cheque on Mich. Ins. Coy	...	...	...	...	757	18	"	102,779 88
29	Coupons	...	...	...	...	40	00	"	38,296 56
31	Dft on London Board £13,250	stg.	...	...	...	64,483	32	"	20,722 19
31	Proceeds of note	...	...	...	...	17,574	37	"	17,841 19
31	Deposits at Detroit	...	...	...	...	2,881	00	"	35,381 59
31	Cheques	...	...	...	...	17,540	40	"	
	Forward	...	...	...	...	\$381,506	81		\$346,125 22

1858
June

July

August

Sept.

DETROIT AND MILWAUKEE RY. CO. AC. GREAT WESTERN RY. CO.—(Continued.)

(Particulars of claims.)

			a.	c.	c.
2,500 0 0	1888.	Forward	381,506 81	346,125 22	
10,000 00	June 1	Cheques	5,516 62		Dr. 40,898 21
29,000 00	7	Deposits		40 00	40,858 21
36 66	7	Cheques and acceptances	27,522 47	3,863 00	68,380 08
16,472 53	9	Deposits at Detroit		921 00	64,517 08
18,345 29	9	"		4,043 00	63,596 68
16,348 29	10	"			69,533 68
35,689 41	10	Cheques	3,847 97		63,401 63
45,985 30	11	Deposits at Detroit		1,388 00	62,013 63
45,982 00	12	Draft on New York and exch.	5,050 00		67,063 63
46,342 09	14	Cheques	38,100 00	4,102 00	105,163 63
49,737 22	18	Deposits at Detroit			101,061 63
50,338 62	19	Drafts on New York	5,292 40		106,354 06
56,533 08	21	Deposits		1,919 78	104,434 27
6,466 92	22	Draft on New York and exch.	4,365 00		108,799 27
2,444 07	23	Deposits at Detroit		1,293 00	107,506 27
1,400 37	26	"		1,300 00	106,206 27
	29	"		1,980 00	104,226 27
	30	"		1,209 00	103,017 27
	30	"		1,528 00	101,489 27
2,770 33	July 3	"			104,489 27
14,140 57	3	Cheque to Ridley	3,000 00	350 00	104,139 27
25,250 57	6	Deposits at Detroit			104,978 63
50,250 57	6	Draft on New York and exch.	839 36	19,422 22	85,556 41
50,250 57	6	G. W. R. Co. on London Board, \$4,000 atg.			95,556 41
78,434 97	6	Acceptances	10,000 00		103,131 41
83,600 45	8	Draft on New York and exch.	7,575 00		103,355 98
86,289 53	9	Cheque	224 57		102,930 46
20,289 53	9	Deposits		425 52	99,415 86
22,278 24	9	Deposits at Detroit		3,514 60	134,415 86
24,776 26	12	Cheque to Paymaster	35,000 00		133,555 86
26,786 26	13	Deposits at Detroit		860 00	135,555 86
40,035 78	13	Cheques	2,000 00		160,555 86
60,035 78	15	"	25,000 00		158,701 86
65,906 88	15	Deposits at Detroit		1,854 00	133,960 76
62,876 88	16	Proceeds of note		24,741 10	132,801 76
58,875 52	17	Deposits at Detroit		1,159 00	132,551 84
57,878 91	20	"		249 92	132,348 88
58,848 91	28	Deposits		202 96	136,108 59
52,860 20	28	Cheques	3,759 71		136,146 18
52,929 82	28	"	37 59		137,357 74
21,404 82	August 4	"	1,211 66		137,499 68
31,561 34	4	"	51 94		142,603 37
31,561 34	4	"	5,193 69		149,305 37
33,454 64	6	"	6,702 00		165,583 37
36,484 64	7	"	16,278 00	9,843 84	155,739 53
38,484 64	13	Deposit proceeds of note			165,739 53
68,484 64	13	D. & M. acceptance	10,000 00		165,892 40
73,534 64	13	Cheque rebate of int'r	152 87		176,748 40
75,134 64	16	Cheque to Paymaster	10,856 00		159,215 00
55,494 63	19	Proceeds of note		17,533 40	177,020 58
55,134 64	19	Cheque D. & M. accept'ce	17,805 58		177,154 11
75,134 64	19	" Com.	133 53		178,075 04
75,574 64	21	" Dft on New York	1,820 93		178,993 25
68,974 64	21	" Exch. on above	18 21		178,951 25
103,937 06	24	Deposits		42 10	184,224 06
103,179 88	30	Cheques	5,372 91		178,962 19
102,739 88	Sept. 1	Deposits		5,261 87	188,962 19
102,779 88	4	Cheque D. & M. acceptance	10,000 00		179,142 46
38,296 56	4	Proceeds of note		9,819 73	170,144 46
20,722 19	6	Cheques	2 00		197,419 98
17,841 19	14	" Draft to credit of G. W. R. Co'y	18,275 52		232,419 98
35,381 59	16	" D. & M. accept'ce	35,000 00		192,419 98
	16	Deposit of G. W. R. Co'y		40,000 00	
		Forward	\$397,412 24	\$504,992 26	

(Particulars of claims.)

DETROIT AND MILWAUKEE RY. CO. AC. GREAT WESTERN RY. CO.—(Continued.)

1888.	Forward	\$	c.	\$	c.		\$	c.
Sept. 10	Proceeds of Notes	697,412	24	504,992	28	Dr.	182,598	33
20	Cheque to Paymaster	20,000	00	9,821	65	"	202,598	33
22	Cheque	512	09			"	208,110	42
Oct. 2	"	7,263	83			"	210,374	25
6	" draw accept'ce	10,000	00			"	220,374	25
7	"	1,600	00			"	221,974	25
8	Deposit			73	27	"	221,900	98
18	" draft on New York			1,702	76	"	220,198	22
19	Draft on New York	10,135	22			"	230,333	44
19	Exchange on above	76	01			"	230,409	45
23	Cheque	10,000	00			"	240,409	45
23	"	11,957	08			"	252,366	53
Nov. 1	"	27,464	07			"	279,821	40
12	D. & M. Acceptance	3,441	62			"	283,263	02
15	Coupons	1,040	00					
15	"	120	00					
15	"	1,880	00					
15	"	1,000	00					
15	"	400	00					
15	"	1,950	00					
15	"	420	00					
15	"	1,520	00					
15	"	1,120	00					
15	"	80	00					
15	"	300	00			"	293,093	02
16	Cheque Coupons.	229	00			"	293,313	02
16	"	240	00					
16	"	1,000	00					
16	" Sterling Bill	350	00					
16	" Coupons	40	00			"	294,943	02
16	"	20	00			"	294,963	02
16	"	3,022	50			"	297,985	52
19	D. & M. Acceptance	10,000	00			"	307,985	52
19	" Coupons	800	00					
19	"	40	00					
19	"	80	00			"	308,905	52
25	" Deposit			7,191	91	"	301,713	61
29	" to Paymaster	23,855	48			"	325,569	09
29	" Deposit, T. Reynold's Cheque			71	92	"	328,497	17
29	Draft on London Board, \$29,000 Sig.			96,444	44	"	229,052	73
30	Cheque	7,064	83			"	236,117	56
30	"	19,695	48			"	255,813	04
30	Com. & Acct.	6,488	60			"	262,301	64
		\$882,599	85	\$620,298	21			
Dec. 1	To Balance	\$262,301	64					
6	D. & M. Accept'ce to Fuller & Co.	7,623	32			"	269,930	96
7	" id.	10,000	00					
7	" Remitt'ce to New York	5,169	75					
7	" Draft on New York, favor Duncan, S. & Co.	43,540	37			"	328,967	63
7	" Exchange on do.	325	55			"	332,493	88
9	" Draft on New York & Exchg.	3,525	25			"	335,034	65
11	" Remittance to New York	2,540	77					
14	" Cheque (Paymaster)	23,633	19					
14	By Cheque on Detroit			4,000	00	"	354,667	84
15	To Am't credited in Error, 14th	4,000	00			"	358,667	84
18	" D. & M. Accept'ce to Fuller & Co.	10,000	00			"	368,667	84
20	Remittance to New York	21,639	73					
20	p. c. on \$20,000 Sig. (deposited 29 ulto.)	222	22			"	390,529	79
24	" Remitt'ce to New York	2,540	77			"	393,070	56
	Forward	\$397,070	56	\$4,000	00			

DETROIT AND MILWAUKEE RY. CO. AC. GREAT WESTERN RY. CO. (Continued)

(Particulars of claim.)

			\$	c.	\$	c.		\$	c.
1858.		Forward	397,070	66	4,000	00			
Dec.	27	D. & M. acceptance to W. Union Telegraph Co.	12,254	24			Dr.		
	27	Interest on note to Justice	122	17					
	27	Remitt'ce to New York	6,971	00					
	30	By sterling exchange			48,166	66		412,418	03
	31	To coupons						364,251	37
		id.			5	83			
		id.			7	00			
		id.			30	29			
		id.			172	86			
		id.			23	30			
		id.			13	98			
1859.		id.			93	20		364,504	63
Jan'y	3	id.			830	64			
	3	id.			326	20			
	3	id.			2	14			
	4	id.			350	00			
	5	id.			156	11			
	8	id.			10,075	00			
	11	Remittance to New York	5,976	00					
	14	Draft on New York favor Duncan S. & Co.	44	82					
	14	To exchange on draft on New York	1,207	19					
	24	Remittance to New York	22,800	42					
	25	Cheque to Paymaster	419	27					
	28	Remittance to New York	5,037	50					
Feb'y	1	id.	6,084	74					
	1	id.	1,007	50					
	1	id.	6,118	98					
	7	Draft on New York favor Duncan, S. & Co.	45	85					
	7	Exchange on do.	5,000	00					
	10	D. & M. note			9,709	03			
	11	By proceeds of notes due 13th June			10,000	00			
	11	Draft on New York	10,075	00					
	11	To remittance to New York	4,994	73					
	14	D. & M. note to W. H. Brown	3,441	62					
	14	id. to S. Justice	3,022	50					
	16	Three D. & M. acceptances	5,837	67					
	17	Cheque			98,043	90			
	19	By proceeds Great W. R. Coy's bond, due 1st June							
	21	To remittance to Windsor	2,617	76					
	21	By proceeds of note due 23rd June			2,543	47			
	23	To coupons			4	66			
	24	By proceeds of note due 22nd June			48,532	20			
	24	do. due 27th June			48,589	75			
	28	To exchange on draft on New York			7	50			
	28	Remitt'ce to New York	6,282	82					
March	1	By D. & M. cheque on Windsor			5,000	00			
	1	Proceeds of note due 4th July			4,855	14			
	2	To cheque	5,000	00					
	3	Coupons	40	00					
	3	Draft on New York favor Duncan, S. & Co.	8,554	83					
	3	Exchange on do.	64	16					
	5	Remitt'ce to N. York	1,007	50					
	6	Cheque	751	66					
	7	id.	1,753	36					
	7	id.	17,317	36					
	10	D. & M. note	5,000	00					
	10	To remitt'ce to New York	3,026	97					
	12	By proceeds of notes due 13th June and 13th July			4,142	30			
	12	D. & M. note to E. B. Ward	11,512	78					
	17	Remitt'ce to New York	2,540	70					
	17	id.							
	19	By D. & M. cheque on Windsor			8,000	00			
	24	To remitt'ce to New York	10,889	82					
	25	By D. & M. cheques on Windsor			10,000	00			
		Forward	\$590,133	27	\$305,374	73			

DETROIT AND MILWAUKEE RY. CO. AC. GREAT WESTERN RY. CO.—(Continued).

		1859.	Mar.	25	To Ist'n on Note to Justice	600,133 27	808,374 73	Dr.	284,937 88
				25	By D. & M. Cheque on Windsor...	179 34			
				28	Proceeds of Note due 31 July...	4,000 00			276,643 00
				31	" D. & M. Cheque on Windsor...	4,294 88			273,643 00
April				2	To Note to Clement St. Boat Co'y...	3,000 00			
				2	By proceeds of Note due 5 Aug't...	6,294 08			260,516 52
				4	To D. & M. Note...	10,420 56			
				4	" Remitt'ce to Windsor...	4,533 29			285,049 81
				9	" Cheque for Draft on N York...	20,000 00			
				9	By D. & M. Cheque on Windsor...	2,520 23			281,586 94
				9	To Exchange on Draft on N York...	18 90			
				11	" Cheque for Draft on London...	1,579 06			
				11	" " favour of G. H. Mingays, Paymaster...	16,051 32			
				11	" Remittance to New York...	2,540 76			
				11	" Id.	8,752 09			
				11	" Cheque...	669 84			311,182 01
				15	By D. & M. Cheque on Windsor...	13,000 00			298,183 01
				13	Ist'n on deposit \$50,000 by G.W. R. Co. \$134 24				
					" Rebate on G. W. R. Bonds, \$100,000	1,112 10			
					" Remitt'ce to New York in error (Feb'y)	1,246 40			291,935 61
				20	" D. & M. Cheque on Windsor...	5,000 00			286,935 61
				21	To Remitt'ce to New York...	5,000 00			
				21	" Id.	1,418 69			293,354 80
				23	By D. & M. Cheque on Windsor...	5,000 00			288,354 30
				26	To Remitt'ce to New York...	3,584 11			
				26	By D. & M. Cheque on Windsor...	5,000 00			286,938 41
May				30	To Remitt'ce to New York...	2,540 77			289,479 18
				2	" Id.	13,520 40			302,999 58
				3	" Id.	4,396 23			307,396 81
				3	" Draft on N York favor Duncan, S. & Co.	5,734 17			
					" Exchange on Do.	43 00			313,172 98
				6	" Remittance to New York...	2,540 76			315,713 74
				7	" Draft on New York, favor Duncan, S. & Co.	1,819 29			
				7	" Exchg. on do.	13 64			317,546 67
				9	" Remitt'ce to New York...	10,075 00			327,621 67
				13	" Id.	10,009 80			337,631 47
				14	" Coupons...	10,750 00			
				14	" Id.	40 00			348,421 47
				16	" Id.	40 00			
				16	" Id.	400 00			
				16	" Id.	420 00			
				16	" Id.	320 00			349,601 47
				17	" Remittance to New York...	3,023 50			
				17	By D. & M. Cheque on Windsor...	5,000 00			347,623 07
				19	To Coupons...	600 00			348,223 07
				20	" Remitt'ce to New York...	5,562 77			
				20	" Coupons...	40 00			353,826 74
				23	" Cheque...	1,507 06			
				23	By D. & M. Cheque on Windsor...	10,000 00			345,333 80
				25	To Remitt'ce to New York...	2,103 26			
				25	" Cheque } for Draft on Windsor {	736 66			
					" Id.	18,287 47			366,461 19
				28	" Remittance to New York...	3,620 27			370,081 46
				30	" Id.	11,140 57			381,222 03
				31	" Ist'n on acct. from 29 Nov. '58 to date...	11,607 55			392,829 58
June				1	" Remittance to New York...	25,080 31			417,909 89
				3	" Id.	509 48			418,419 35

DETROIT AND MILWAUKEE RY. CO. AC. GREAT WESTERN RY. CO.—(Continued.) (Part 10.)

(Particulars of claim.)

1859.		Forward	a.	c.	c.
June	7	By D. & M. note to S. C. Ridley	822,539 48	801,336 57	Dr.
	10	" Remitt'ce to New York	12,615 88		
	17	" id.	1,073 85		441,001 61
	18	By D. & M. cheque on Windsor	19,380 55		464,273 16
	14	To remittance to New York	5,081 54	5,000 00	489,273 16
	15	By D. & M. cheque on Windsor		8,000 00	464,253 70
	18	To remitt'ce to New York to retire note to Boston Loco. Works	\$2,521 66		
		" Do. due 22nd instant	50,000 00		
	15	By proceeds of D. & M. notes invested in exch. \$200,000 00	52,915 77	196,479 18	
	18	To interest on note due 17th May	389 12		313,029 41
	21	" Cheque } for draft on Windsor	1,585 40		
		" id.	20,591 72		
	21	" Cheque	715 51		
	21	" Remitt'ce to New York	2,637 89		
		" Draft on New York favor Duncan, S. & Co.	14,365 87		
	21	" Exchange on do.	106 98		
	21	By proceeds of note due 25th October		48,541 80	
	21	To exchange	19 20		304,409 18
	22	" Remitt'ce to New York	2,540 77		306,949 98
	23	" Remitt'ce to N York to retire note due 27th inst.	\$1,507 25		
	23	Note due 27th inst.	50,000 00		
	24	Exchange and disc. charged by Bank of Interior, New York	51,994 30		359,944 28
	27	To remitt'ce to New York	1,814 62		360,758 87
	27	By D. & M. cheque on Windsor	2,540 76	10,000 00	
		" Proceeds of note due 30th October		48,551 40	304,748 28
	28	To remitt'ce to New York	5,376 45		310,124 69
	29	" id.	16,458 94		326,583 63
July	1	" Coupons	1,802 00		
	1	" id.	2,240 00		
	1	" D. & M. note due in Detroit	20,000 00		350,125 63
	2	" Remitt'ce to N York and Windsor	6,619 02		356,744 64
	5	" Coupons	123 50		
	5	" id.	52 50		
	5	" id.	91 00		357,010 64
	5	" id.	550 00		357,560 64
	9	" Remitt'ce to New York	4,034 47		361,595 11
	11	" id. and Windsor	4,647 56		366,042 77
	15	" id.	1,707 91		367,750 68
	16	To Draft on New York favor Duncan, S. & Co.	1,023 76		
		" Exchange on do.	7 68		368,763 13
	16	" D. & M. accept'ce to G. B. Russell	1,779 95		370,563 10
	19	" Remitt'ce to New York	6,064 01		376,626 11
	22	" Draft on N York favor Duncan, S. & Co.	4,782 45		
		" Exchange on do.	85 87		381,444 46
	25	" Remitt'ce to New York	7,203 50		388,647 96
	26	" Draft on Windsor and Cash	14,338 19		402,986 15
	26	" Remitt'ce to New York	4,456 15		
	28	By proceeds of note due 18th November		48,660 45	358,775 85
	29	To coupons	324 50		
	29	" Remitt'ce to New York to retire note due 2nd proximo	50,375 00		409,885 35
August	2	" Remitt'ce to New York	2,540 78		
	2	" id.	24,357 71		436,283 64
	3	" id.	1,033 98		
	3	" Coupon	7 00		
	8	By D. & M. cheque on Windsor		5,000 00	435,324 83
	4	To note to Bogart & Kneeland	5,061 24		
		Forward	1,201,961 46	761,575 40	

(Particulars of claim.)

DETROIT AND MILWAUKEE RY. CO. AC. GREAT WESTERN RY. CO.—(Continued).

		1898.	Forward	1,201,841 46	781,578 40		
Aug.	4	To Note to C. Kniesland	2,808 06			Dr.	448,693 18
	6	" Remitt'ce to New York	8,840 78				448,483 90
	9	By D. & M. Cheque on Windsor			5,000 00		440,483 90
	11	To Remitt'ce to Windsor	2,848 33				
	11	By D. & M. Cheque on Windsor			5,000 00		487,981 33
	12	To Remitt'ce to New York	30,718 94				388,697 16
	15	" id.	2,840 78				471,337 94
	15	" Note to Wood & Judd	970 13				472,308 06
	17	" Remitt'ce to New York	693 06				472,880 11
	23	" id.	2,840 77				
	23	By Draft on N York & E. Ch.			484 71		474,986 17
	28	" D. & M. Cheque on Windsor			5,000 00		470,671 17
	28	To Coupons	735 00				
	29	" Remitt'ce to N York to retire Note due 2d prox'a, \$50,000	50,375 00				
	29	" Remitt'ce to New York	2,066 27				
	29	By D. & M. Cheque on Windsor			5,000 00		
	29	To Cheque } For drafts on Windsor	2,478 84				
		" id.	1,542 98				
		" id.	6,009 60				
	29	By Proceeds of Note due 28 Nov'r..			48,877 40		487,866 46
	30	To Remitt'ce to New York	2,828 80				484,195 26
Sept'r	1	" id.	4,186 88				498,381 84
	2	" Remitt'ce to N. York	\$533 51				
		" per com. Com. on note ret'd in Detroit, \$50,000 on 4 July, omitted to be charged at the time	50 00				
	6	" D. & M. Note	523 51				498,915 35
	7	" Exchange on Dr't on N. York	489 50				498,384 85
	7	" Exchange on Dr't on N. York	81 27				498,416 12
	8	" Remitt'ce to New York	1,073 02				497,488 14
	12	" id.	4,006 85				501,494 99
	15	" id.	2,840 77				
	15	By D. & M. Cheque on Windsor			5,000 00		499,035 76
	14	To Cheque to Paymaster	1,569 48				
	14	" id.	7,850 99				
	14	" id.	10,571 69				518,890 93
	17	" Remitt'ce to New York	2,840 78				521,361 68
	20	" id.	1,937 31				522,598 89
	21	" Exchange	9 42				522,609 36
	23	" Remitt'ce to New York	2,840 77				520,148 13
	23	To Coupons	43 00				
	23	By D. & M. Cheque on Windsor			28,069 71		
	23	To Remitt'ce to Windsor	28,069 71				525,185 18
	26	" Note to Hendrie & Co.	781 81				
	26	" Remitt'ce to New York	2,840 78				528,487 70
	26	To Coupons	168 00				528,655 70
	29	" Remittance to New York to retire two Notes \$50,000 each, due 3d prox'a	100,875 00				629,080 70
	30	" Remitt'ce to New York	3,939 08				632,969 78
	30	To Coupons	80 00				
	30	" & p. c. additional on Remittance to New York, 29th Inst.	875 60				
	30	By Proceeds of two Notes due 18th Nov'r..			98,810 30		534,614 43
October	1	To Remittance to New York and Windsor	28,126 84				559,741 02
	4	" Note to B. C. Ridley	4,538 29				564,274 31
	5	By Drafts on Metropolitan Bank			5,659 83		558,614 43
	10	To Remitt'ce to New York	1,885 28				560,449 86
	11	" id.	2,840 77				562,990 63
	12	" id.	2,238 87				
	13	By am't transferred from G. W. R. Co's Acct., by Cheque to retire D. & M. Note due 25th Inst.			50,000 00		515,214 00
		Forward	1,528,641 35		1,018,427 35		

DETROIT AND MILWAUKEE RY. CO. AC. GREAT WESTERN RY. CO.—(Continued.)

(Particulars of claim.)

	1880.	Forward	\$	c.	\$	c.		\$	c.
	Oct.	16 To remittance to New York	1,528,041	35	1,012,427	25			
	18 " Remittance to New York to retire D. & M. note, due 25th inst.	1,029 95					Dr.		
	20 " Remittance to New York	50,375 00						566,618 85	
	22 " D. & M. note and interest	1,073 91						567,692 84	
	24 " Remittance to New York	1,145 06						568,837 93	
	25 " D. & M. note	2,540 77						571,378 69	
	26 " Draft on Windsor	585 29						571,963 98	
	28 " Remittance to New York	7,925 05							
	28 " Remittance to New York to retire note due 29th inst.	2,531 86							
	28 By proceeds of note due 28th February, 1880	50,375 00							
	28 To D. & M. note	48,551 40						584,134 49	
	28 " Coupons in error	1,763 33							
	29 By drafts on Metropolitan Bank	400 00						586,297 82	
	29 " Coupons charged 28th inst.				3,171 16				
	31 To Remittance to New York	400 00						586,726 66	
	31 " D. & M. note	2,540 77							
	Nov. 1 By draft on Metropolitan Bank	551 69						585,610 13	
	7 To remittance to New York	2,540 76				884 98		584,088 14	
	7 By draft on Metropolitan Bank								
	11 To remittance to Windsor	2,540 76				987 57		586,487 33	
	15 " Coupons	2,135 04						588,622 37	
	15 " id.	820 00						588,942 37	
	15 " id.	420 00							
	15 " id.	1,280 00							
	15 " id.	1,360 00							
	15 " id.	400 00							
	15 " Remittance to New York	2,540 76							
	15 To cost of discount and exchange in renewing two notes of \$100,000 each, due 18th December	2,765 66							
	15 " Coupons	2,923 50							
	16 " id.	40 00						600,632 23	
	16 By rebate of interest on note \$50,000 due 28th inst.					106 84			
	16 " Draft on Metropolitan Bank					2,521 85			
	16 To Coupons	5,000 00						601,043 53	
	17 " id.	20 00						601,063 53	
	18 " id.	80 00							
	18 " id.	40 00						601,163 53	
	19 " id.	500 00							
	19 " id.	1,167 50						602,851 03	
	22 " Remittance to N York	698 25							
	22 " Draft on New York favor Duncan, S. & Co.	2,540 76							
	22 " Cheque	21,116 48						627,204 53	
	23 " id.	399 80							
	23 By D. & M. Cheques	486 62							
	23 To exchange on draft on N Y					3,378 27			
	23 " Coupons	188 37							
	23 " id.	40 00							
	23 By G. W. R. cheques \$25,000, and \$25,000 to retire note due 28th February, 1880	230 00							
	23 To D. & M. note to Wood & Judd	50,000 00						575,111 04	
	24 " Note G. E. Russel & Co. and interest	399 80						575,510 84	
	25 " Coupons	467 54						575,978 38	
	26 " id.	240 00						576,218 38	
	26 " id.	1,560 00						577,778 38	
	28 " Remittance to N York								
	do. to Windsor	\$2,666 27							
		55,128 86							
	30 To interest on account to date	55,905 13						636,583 51	
	1 " Note recalled from N Y, due 28th Feb., 1880	17,183 24						653,765 55	
	1 By rebate of interest on above	50,000 00							
	5 To note to S. C. Ridley	500 00				824 65		702,941 20	
	Forward		1,527,696 27		1,284,254 07				

DETROIT AND MILWAUKEE RY CO. AC. GREAT WESTERN RY CO.—(Continued).

(Particulars of claim.)

1859.	Forward	1,827,896 37	1,194,354 07	Dr.	
Dec. 1	To Note to R. C. Ridley	1,000 00			
2	" id. Hopkins & Schofield	1,000 00			
3	" id. H. D. M. Osborne	682 50			
4	" Exchange on Draft on N. York.	224 77			
5	" Draft on N. York, favor Duncan, R. & Co.	39,968 93			739,053 79
6	" Remittance to N. York	2,513 39		14,417 57	734,616 22
7	" Discount in lieu of Note to Ridley, charged 30 ults.	610 00			735,976 22
8	" Note to Hendrie & Co.	500 00			735,966 22
9	" Coupons	40 00			
10	" id.	3,196 29			739,166 51
11	" Remittance to New York	24 00			
12	" id.	1,196 60			
13	" D. & M. Note	4,917 80			
14	" id. and interest				
15	" By proceeds of Notes due 7 March, 1860,				
16	Renewals of Notes charged 30 ults.,				
17	(Ridley endorse)		48,734 48		688,568 01
18	To D. & M. Note	514 39			
19	" id.	1,201 48			699,834 49
20	" Remittance to New York	2,540 76			
21	" Draft on N. Y., favor Duncan, R. & Co.	9,760 98			709,556 69
22	" Exchange on do.	73 21			709,199 44
23	" Remittance to N. York	2,540 76			
24	" Dr/A on Windsor	18,437 17			
25	" D. & M. Notes (Ins'ces Notes)	12,237 50			738,910 18
26	" D. & M. Note (Ins'ces Notes)	46 07			
27	" id. on Draft on Windsor	531 14			
28	" D. & M. Note	689 76			
29	" Remittance to Windsor	1,120 35			740,190 15
30	" D. & M. Note	728 72			741,670 53
31	" id.	1,480 37			743,270 92
32	" id.	600 40			
33	" id.				
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In the Queen's Bench.

The Commercial Bank of Canada,

PLAINTIFFS,

The Great Western Railway Company,

DEFENDANTS.

The foregoing are the particulars of the Plaintiff's demand in this action, and for the recovery hereof they will rely on the counts in their declaration.

Dated 28th day of March, 1862.

To *EMILIUS IRVING, Esq.*
Att'y for Defts.

JOHN A. MACDONALD,
Pls. Att'y.

KINGSTON ASSIZES.

MONDAY, May 12, 1862.

The Court met at nine o'clock this morning,—Hon. Mr. Justice BUANA presiding. The first case called was that of

THE COMMERCIAL BANK OF CANADA

v.

THE GREAT WESTERN RAILWAY OF CANADA.

Hon. J. H. Cameron, Q.C., M.P.P.; Henry Eccles, Esq., Q.C.; Thomas Galt, Esq., Q.C.; Sir Henry Smith, Q.C.; Adam Crooks, Esq.; A. J. Macdonell, Esq.; and James O'Reilly, Esq., appeared for the Plaintiffs. M. C. Cameron, Esq., M.P.P.; Emilius Irving, Esq.; H. C. Becher, Esq., Q.C.; John Roaf, Esq.; J. J. Burrows, Esq.; and Messrs. Emmons, Gray, and Jerome, of the Michigan Bar, represented the Defendants.

A Jury having been empanelled,

Mr. ECCLES rose and said,—May it please your Lordship, Gentlemen of the Jury,—The action which you, gentlemen, have been empanelled to try, is, perhaps, one of the most important which has ever been tried in this Province. It is important, in the first place, because it involves a large amount of money: the sum sought to be recovered being one million of dollars and upwards; and it is important, in the next place, because it involves the standing, the character, the reputation, and the financial position of the Plaintiffs, the Commercial Bank of Canada, as well as the character and the reputation of the Great Western Railway Company of Canada, the Defendants. I say that the case becomes important in the highest degree when we look at the position of the Plaintiffs and the Defendants; because they do not appear before you as individuals simply, the one seeking to enforce, the other to resist, a right or claim, but both parties are the representatives of vast numbers of people, both in this Province and out of this Province, who are deeply interested in the result of this case. The Bank, although their business is carried on in this city, are only the representatives of various shareholders residing, some within the Province, and some within Great Britain, and each one of whom is more or less interested in the verdict which you will by-and-by be called upon to render. On the other hand, those who represent the Great Western, appear before you simply in the character of trustees for those

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who are stockholders and bondholders, residing, also, some in this Province, and some in Great Britain, and perhaps, too, many in the United States. So you will at once perceive that both Plaintiffs and Defendants are before you merely as trustees for the money and interests of others. Now, the pleadings in this case are exceedingly simple. The Plaintiffs set forth, in what we lawyers call their declaration, that the defendants are indebted to them in a large sum of money for advances made—money lent, in fact, to use the technical expression of the declaration. The simple answer of the Defendants is, that they were never indebted for money lent. And this, gentlemen, is the whole issue you are sworn to try. But though the issue itself seems simple, yet all the facts and the circumstances which attended the dealings between these parties are necessarily of an intricate nature. When I tell you that it would take counsel learned in the law days, aye, and perhaps weeks, to arrive at a proper understanding of all the transactions between these two companies, which form the basis of this action, you will agree with me that it can hardly be expected that a jury of twelve men unaccustomed to such matters, who sit here, and in the course of a few hours hear contradictory statements of witnesses, perhaps, and quite as probably, contradictory arguments of counsel, should be able, without the greatest possible amount of consideration and attention, to arrive at anything like a proper conclusion. But the laws of our country point this out as the manner in which all such differences between individuals, or between companies shall be determined, and you being, by the laws of the country, the proper tribunal to dispose of this matter, you have necessarily been summoned to take your seats there to give a deliverance on the subject. Such being the case, I, as one of the counsel on behalf of the Plaintiffs, shall make it my business, to the best of my ability, to extricate from the vast mass of documentary and oral testimony such facts as will lead you, in my opinion, to a proper conclusion in regard to the bearings of the case. I will, therefore, proceed to lay before you the plain and simple points which we are prepared to establish by evidence, in order that you may retain them in your minds, and afterwards dispose of them *seriatim*. It may be desirable for me to tell you that the Great Western Railway Company is a corporation under an Act of the Legislature of Canada, constituted and appointed for certain purposes, such as the construction of a line of road within defined limits in this Province. That they have constructed that line of road leading, with its branches, from the City of Toronto, and from the Suspension Bridge, on the Niagara River, to Windsor, at a point opposite to Detroit, on the Detroit River, is a fact well known to all in Canada; and so far they have confined themselves to the purposes set forth in their Act of Incorporation. You may not, perhaps, have been previously aware that a very large number of the shareholders in this Great Western Railway Company are residents in Great Britain, and I may also inform you that the affairs of the Great Western, in consequence of the great majority of the stockholders and bondholders being resident in Great Britain, are under the direct management of two gentlemen who have been sent out from England to this country—Mr. Brydges, the Managing Director, and Mr. Reynolds, the Financial Director. These are the gentlemen who have managed for some time, and who still manage the affairs of the Great Western in Canada. As to the exact extent of their authority, I am not prepared to speak, because those are matters that are known only, I suppose, to the Board of Directors at home, to the Board of Directors in Canada, and to themselves; but they are, I presume, to a certain extent, under the control of those Boards of Directors, one in England, and one in Canada, who are nominated and appointed by the shareholders in their respective countries. I have no doubt, however, that, whatever may be the extent of the authority entrusted to these gentlemen, those who have the control of affairs at home, are governed in a great measure by suggestions made to them from time to time, as to the advantages to be derived from the peculiar working of the road, or the additions desirable to be made to their property in Canada, and that frequent communications are passing between the Directors at home and the Managing Directors in Canada. And that brings me now to the point at which the differences that you are about to dispose of arose. The Great Western Railway, as I have already told you, terminates at Windsor, on the Detroit River, opposite to the City of Detroit, on the American side. The Grand Trunk Railway, too, which is a rival company, terminates by a branch at Detroit, on the opposite side. I will here give you a little sketch, so that you may have a proper idea of the manner in which these two roads meet at Detroit:

[The learned counsel here presented a map to the jury, and explained that the main line of the Great Western was marked red; its Hamilton and Toronto branch, blue; the Detroit and Milwaukee line, green;

and the Grand Trunk line, black. He also explained the course each line took—the Great Western, starting at Suspension Bridge, continued to Hamilton, where the red united with the blue, running from Toronto; thence it continued in pretty nearly a straight line to Port Sarnia, on Lake Huron, and then deviated so as to come round to Windsor, opposite to Detroit. The Grand Trunk ran to the same point, Port Sarnia, and had likewise a branch from thence to Detroit (Windsor); which, therefore, was the termini of the two companies.]

Now, both these companies (continued the learned counsel) were exceedingly anxious to make their way to the vast territory beyond, known as the Wisconsin portion of the United States. It is the most fertile and perhaps the most promising State in the Union. If either could cross there, and, beyond that, cross Lake Michigan by means of steamboats running in connection with their trains, a great point would be gained. Now, the Grand Trunk would have reaped the benefit of this advantage had not the Great Western stepped in and intercepted them. So you perceive that these managing and financial directors, Mr. Brydges and Mr. Reynolds, seeing the fair prospects which lay before them of making their way across the United States, and perceiving also that their rivals, the Grand Trunk Directors, were likewise anxious to reach Lake Michigan, and through it the Wisconsin valley, and feeling too, I have no doubt, exceedingly jealous that the Grand Trunk should take the lead in such a matter as this—I say, seeing all this, and finding further that this railway which you have seen marked in green had been commenced under the provisions of an American Act of Congress, by virtue of a charter of incorporation, as the Detroit and Milwaukee Railroad Company, and knowing that this company, like a great many other companies on the American side, had commenced operations under general powers, without first providing the means necessary for carrying out their works, and being persuaded that the necessary consequence must be that the American Company, called the Detroit and Milwaukee, must fail in their operations for want of means—thought it would be a good opportunity for them, if they could legally do so, to unite the Detroit and Milwaukee line with their own by purchasing it altogether, and thereby take to themselves the control of the road, already commenced and partially completed, and so continuing and extending their line of railway, as it were, from the Niagara River through to Lake Michigan, they set about the plan which gives rise to the present action. Being anxious to do all this, Mr. Brydges went to England to advise and consult with the Board of Directors, and with the Shareholders and Bondholders there; and I have no doubt he pointed out to them in a very clear light the great advantages which were to be gained by such an operation. But they had not the means, either in Canada or in England, to carry out this undertaking—they had not the money within their control sufficient for the purpose of buying up and aiding this railway company in the United States, and thus it required all the financial abilities of the two gentlemen whom I have named to discover a mode by which all this could be done. They were at that time doing their banking business with the Bank of Upper Canada. That Bank had extended to them the privilege of drawing from time to time, as funds might be required, to a very large amount over their deposits—or, in other words, they had what is called in banking phraseology a credit account with the Bank of Upper Canada, so that they might draw over and above the funds they had lying in the bank to the extent of \$300,000 or \$400,000. This I understand to have been the privilege which they enjoyed while doing business with the Bank of Upper Canada. But about the time these directors thought it advisable to take up this American company, the Bank of Upper Canada was beginning to press them. The Bank of Upper Canada was saying to them in effect, "You have overdrawn to a very large extent. Your deposits here are not what they ought to be. The profits of your company's business are not so large as we expected, and instead of keeping down and diminishing your overdraft account, it is daily increasing. Therefore we must insist on the company closing up with us, or at all events, keeping down this large sum of \$300,000 within reasonable limits."

MR. M. C. CAMERON—I do not wish to interrupt the learned counsel unnecessarily; but I would like to know if he intends to offer any proof in regard to our dealings with the Bank of Upper Canada.

MR. BOYLES—I need dwell no longer on that point, and I will go on and say that thereupon Mr. Reynolds came as the financial director of the Great Western to Mr. Park, the Manager of the Branch of the Commercial Bank in Hamilton, and telling him that the Bank of Upper Canada and the Great Western Railway Company could no longer agree, made a proposition to Mr. Park for the transfer of the account from the Bank of Upper Canada to the Commercial Bank. And here, gentlemen of the jury, is the commencement of our intercourse

with the Great Western Railway. The head quarters of the Great Western are at Hamilton, where the position was made. Mr. Park being simply the bank's agent at Hamilton, had no authority of himself to make any arrangement with them or with anybody else for a banking credit. He had, however, authority to open a deposit account with them; if that was what they wanted; but he had no power to make an arrangement by which they might overdraw at any time and to any amount. Before doing that it was necessary that he should communicate with Mr. Ross, the Manager at head-quarters here in Kingston. This was about the month of August, 1857. But I may pass this transaction over by merely remarking that in consequence of communications which passed between Mr. Reynolds, Mr. Brydges and the officers of the Commercial Bank, the account was transferred from the Bank of Upper Canada to the Commercial Bank, and duly opened with the Great Western Railway. I believe one of the conditions on which this was made was that the Great Western should have a credit or the privilege of overdrawing to a limited extent; and there was a further condition that the Commercial Bank should discharge the amount of the liability which the Company had at that time incurred with the Bank of Upper Canada. I think this was the arrangement which was made; but it is not very material to the issue. The account thus opened we shall call, for the sake of convenience, the account proper. It was shortly after this arrangement that negotiations commenced between the Great Western, through their Managing and Financial Directors, and the officers or parties having the control of the Detroit and Milwaukee Railway. And the first we hear of that, so far as the present Plaintiffs are concerned, is, that Mr. Reynolds went to Mr. Park some time in 1857, and informed him that the Great Western were about to assume the control of the affairs of the Detroit and Milwaukee Company—that they were about to extricate the road from its pecuniary difficulties, to complete it, and to take it into their own hands. He represented to Mr. Park that the prospects of an extensive traffic were very promising, and that in consequence of the Great Western having now possession of the whole line through, the traffic was expected to be exceedingly great, the returns looked for from which would be ample to keep down the interest which the Bank might make on that particular account. On that, Mr. Reynolds suggested to Mr. Park that the Commercial Bank should advance on account of the Detroit and Milwaukee enterprise, a sum of money sufficient to enable them to go on and complete the line. To that suggestion Mr. Park returned the very simple answer, that he had no authority to enter into any negotiations on such a subject, but that he would communicate with Mr. Ross, at Kingston. Mr. Reynolds then said that a loss of time would be incurred by communicating with Mr. Ross, at Kingston, and as every moment was of the utmost importance to them, he suggested that there should be a meeting at Toronto of Mr. Ross and himself, so that they might consider the matter at that intermediate point. Mr. Ross going from Kingston, on the one hand, and Mr. Reynolds from Hamilton, on the other. So Mr. Park wrote to Mr. Ross, who went immediately to Toronto, and there met Mr. Reynolds. This was in the month of December, 1857. Negotiations having been opened, Mr. Reynolds repeated to Mr. Ross what I have already told you he had stated to Mr. Park at Hamilton, namely, that they were to have the whole control of this foreign railway, and that very great advantages would be derived from it; and he repeated also to Mr. Ross that he desired a credit to be opened with the Detroit and Milwaukee Company. Mr. Ross, in answer to this, said distinctly: "We will open no account whatever with the Detroit and Milwaukee Company, because, independently to the objections in the way of doing a Banking business with a foreign company, they are notoriously an insolvent company, who cannot at present pay the amount of their liability for the construction of that portion of the road which has already been completed. On that account I refuse most positively to open the account with the Detroit and Milwaukee Company. But," he added, "we have no objection to have any transactions with the Great Western Company, and to give them the accommodation which has been asked for, so as to enable them to make the loan to the Detroit and Milwaukee." And upon that proposition matters were there and then closed. The verbal agreement was between Mr. Ross, as representing the Commercial Bank, and Mr. Reynolds, as representing the Great Western, that the Commercial Bank should give accommodation to the Great Western to a very large amount, and that the Great Western should cover those advances at the end of each month by a bill of exchange drawn by the Managing Directors here on the Directors in England, or on the funds of the company by means of what I will call, for brevity's sake, sterling exchange. Now, this arrangement, you will understand, is the foundation of the present action; and if we establish to your satisfaction, that that arrangement actually was made between Mr. Reynolds and Mr. Ross,

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then the Plaintiffs will have a right to recover in this action, exactly the amount which they represent as being due to them. At least, that is our view of the legal position of these parties. The account was opened, then, in pursuance of this agreement. It began on the 30th December, 1857, and continued until the 30th December, 1859—two years exactly—at which time the balance of the general account current kept with the Great Western, was the sum of \$800,000 and over; and in addition to that, there was another item of some \$200,000 not due at that particular date, but falling due afterwards, and which added to the other sum made a million of dollars, and upon that million of dollars interest has been accruing and due from December, 1850, to the present time. In the course of the transactions under this arrangement, we shall shew to you that the first month the amounts chequed out on the joint cheques of Messrs. Brydges and Reynolds amounted to about \$29,000. That was for the first month of January. The first cheque being issued just at the time of the change in the current system of the Province, it was for £2,500, equal to \$10,000, and the next cheque was for \$19,000,—making together \$29,000, or thereabouts. Then, in the early part of February—about the 2nd or 3rd of that month—this was covered, according to arrangement, by a bill drawn on England for £8,000 sterling, which was about equal to the amounts drawn out on the cheques, and was duly carried by the Bank to the credit of the Great Western. So that for the first month their account stood about balanced. This was strictly in conformity with the contract made between Mr. Ross and Mr. Reynolds, and was quite to the satisfaction of the Bank. In the next month, cheques amounting in number to about a dozen, ran up the account to a very considerable extent, and there were some notes put in to their credit. But, gentlemen, I need not detain you by going through these accounts month by month, and day by day, or with a recital of the particular items of which it is made up. It is sufficient for me to tell you that the account continued to increase day by day from that time up to December, 1858, when the balance against the company amounted to some \$200,000 or \$300,000. In consequence of this—finding that the traffic returns from the Detroit and Milwaukee Road, so far as it had been in operation, were not sufficient to keep down the expenses, and finding also that, instead of complying with the terms of agreement of which I have spoken, by giving sterling bills on England at the end of each month, the English Directors had ordered that these bills should not be drawn, Messrs. Brydges and Reynolds found that they were in a very awkward position, because what they had promised to the bank were sterling bills to meet the advances, and they were in honour bound, as well as legally and technically bound, to the Bank to make good their undertaking, and to give those bills on England. But when they found that the Directors at home were not willing that the bills should be drawn on them or on the funds of the company in England, and forbade their being so drawn, it became necessary for them in their own defence to make some other and better arrangement if they could with the Commercial Bank. They therefore applied to the Commercial Bank to give them on this account—I draw a distinction, you will understand, between the general account of the Great Western Railway and their account as applicable to the Detroit and Milwaukee Railway—they applied, I say, to the Bank here to give them a Detroit and Milwaukee credit account, or privilege of overdrawing to the amount of \$100,000. That permission for them to draw over and above the amount of their credit, to the extent of \$100,000, or overdraft, as it is called, was given by a resolution of the Board of Directors of the Bank held here in Kingston, which resolution was at once communicated to Messrs. Brydges and Reynolds in answer to their application. They were given to understand that they should have from that time up to the 1st July, 1858, an overdraft credit to the amount of \$50,000, and that after 1st July it should be extended to what they asked, namely, \$100,000. This seems to have given satisfaction to the applicants. The condition, however, attached, that they should meet the advances by drafts on England was not quite so satisfactory—that is to say, that the periods at which the English drafts were required to be made payable were not so satisfactory. But this is not very material. All I desire to mention is, that on the application of these gentlemen at this time the Bank passed the resolution I have referred to, giving them the privilege of overdrawing their account for a certain period to the extent of \$50,000, and after that period to the extent of \$100,000. I now go back to the period of the first opening of the accounts with the Bank. After the arrangements between Messrs. Reynolds and Ross were completed at Toronto, or rather I should say at that same meeting, the question suggested by Mr. Reynolds himself was, how the account in regard to the Detroit and Milwaukee Railway should be kept with the Bank, so that it might stand separate from the general Great Western account. He asked how it should be headed in the

Bank books. Mr. How suggested that the account should be opened in the Bank books as the Great Western Railway account No. 2. Mr. Reynolds, however, objected to this particular mode of heading and keeping the account, because he said it would cause all cash entries to pass through the general account of the Great Western, and thereby create confusion and extra trouble and inconvenience in regard to their general account. It was then suggested that it should be headed, the Detroit and Milwaukee Great Western Railway account; and to that Mr. Reynolds assented. Having closed their transaction at Toronto, and nothing remaining further to be done, Mr. Reynolds proceeded to Hamilton. Mr. Park, I should have observed, the agent at Hamilton, being present while all this was going on in Toronto, and hearing all that took place, was fully cognizant of the arrangement, and after it was completed, he returned to the Bank at Hamilton, where Mr. Reynolds presenting himself on the following day—the 30th December—or some one else holding a cheque drawn by Messrs. Brydges and Reynolds, presenting himself, the account was opened. The first entry was made in the day-book by the teller or person who hands the money over the counter in exchange for the cheque. That person, not at first knowing exactly in what form, to enter it in the day-book, received his instructions from Mr. Park. This entry in the day-book was in accordance with the arrangement with Mr. Reynolds to carry this cheque charged to the Great Western Railway Company—Detroit and Milwaukee account. The other cheques were charged in the day-book in the same way by the tellers; or perhaps, though not stopping at the time to think exactly on the form of heading, they may have reversed the words, and made the entry,—Detroit and Milwaukee Railway—Great Western account; or it is probable that in some instances a clerk may have entered in the Bank books, “D. & M. account,” just using the initial letters; or sometimes, “G. W. R.—D. & M. account.” So we find it entered in various ways, but always meaning the same thing—always done, too, under the first instructions given by Mr. Park. And thus it passes from the day-book to the journal, and from the journal to the ledger. The account continued on in this way until, in 1859, it was found that the Great Western Railway Company were not fulfilling the terms of their arrangement—they were not giving their bills of exchange on England as they agreed to do. The amount to their debit had meanwhile increased from day to day until it had reached a very large amount. The excuses given by Messrs. Brydges and Reynolds were very plausible, and sufficient for the time-being to keep quiet the Bank, who were always willing to give them the utmost accommodation which was within their power. In fact to such an extent and to such a degree did they evince this spirit of liberality, that it called forth from Messrs. Brydges and Reynolds a letter couched in the strongest terms, expressing their pleasure and satisfaction at the courtesy extended to them by the Bank and all connected with it. Thus we were going on in the most friendly manner, endeavouring to aid the Company, seeing that the prospects as painted by Mr. Brydges were so bright before them—that the traffic in the course of time would be enormous, having as they had the line through Canada up to the far West in their own hands; and by these representations they succeeded in keeping the Bank in a satisfied state. The directors of the Bank considered that they incurred no danger. The Great Western Railway Company were understood to be a wealthy and efficient Company, and the Bank had at that time no fear of loss. It went on so until in a casual conversation between Mr. Park, Mr. Reynolds, Mr. Brydges, and Mr. Stephens, the Secretary of the Great Western, Mr. Park observed an attempt on the part of one or all of these gentlemen to shift their responsibility from the shoulders of the Great Western to those of the Detroit and Milwaukee Company. I will use plain words to express to you what was understood to be their meaning. It was that the Great Western Railway Company never borrowed the money from the Bank; but that the Detroit and Milwaukee Railway Company—an insolvent, broken-down, bankrupt Company, were the debtors—the Great Western having been all the time, as they insinuated, only communicating between the Bank and the Detroit and Milwaukee—between debtor and creditor. That, of course, at once startled the Bank. Then for the first time, after the amount of their account had reached an enormous sum, after they had treated it from day to day as their own, the Great Western account, they thought fit—the Directors in England having perhaps begun to repudiate the transactions of these extravagant agents of theirs in Canada, and refused to provide funds to meet the bills drawn by their agents here in the performance of their contract—after all this, these gentlemen, now in court, thought it necessary to shift the burden from themselves, and to lay it upon the bankrupt Company in the United States. This state of things led to enquiries and investigations, and finally, in December, 1859, to the closing up of the account. So, gentlemen of the jury, you now perceive, the first question you have to try is,

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To whom did the Commercial Bank lend this money? Did they lend it to the Great Western Railway Company of Canada, or did they lend it to the Detroit and Milwaukee Railway Company? There is the first point, and in my opinion the only point you will have to dispose of. Mr. Ross will prove to you every word I have stated in regard to this transaction. He will prove to you in the most distinct terms that they never gave credit to the Detroit and Milwaukee Railway Company for a single shilling—that they scouted the proposition when it was made to them—that they told Mr. Reynolds that it was absurd to talk about opening an account and giving credit to a broken-down company in the United States, but that they would give credit to the Great Western, and that it was agreed that the credit should be given to the Great Western. But, independent of this, we have ample evidence to show that the Bank never had any communication whatsoever with the Detroit and Milwaukee Company—that they never knew them. The great difficulty which here arises is this, that Messrs. Brydges and Reynolds, being officers of the Great Western—Managing and Financial Directors—chose, in the exercise of the authority with which they were armed (I borrow the words of Mr. Brydges himself), to make themselves President and Vice-President of the Detroit and Milwaukee Company. So there they stood, on the one hand the representatives of the Great Western, and on the other officers of the Detroit and Milwaukee—a position which they may have thought gave them immense power, and the great privilege of playing from hand to hand, and of having all within their own grasp. No doubt this was the impression they entertained. But, unfortunately for them, as it has since turned out, it was a position which led to a great deal of trouble between them and the Directors in England. But that we may begin at the beginning of the communications which took place between the Bank and the two railway companies, I will give you the whole thing as it took place. I hold in my hand a prospectus, issued in the United States, and headed, "Detroit and Milwaukee Railroad Company. State of Michigan, United States. Issue of £250,000 sterling, or \$1,250,000 of seven per cent. mortgage bonds; convertible into shares until May 1865, and redeemable at par in May, 1875. Interest payable in New York semi-annually, on the 15th November, and the 15th May." This, gentlemen, is the heading of the first prospectus, and it is signed by the Hon. H. N. Walker, of Detroit, the President, and by four of the English Directors of the Great Western Railway Company, called trustees for the English bondholders. In that prospectus you will observe that the proposition is to issue bonds of the Company, secured by mortgage on the road and the other property of the Company, for the payment in twenty years of \$1,250,000, with interest at 7 per cent., payable semi-annually, and, as I have just remarked, naming four of the English Directors of the Great Western Railway as trustees for the English bondholders. The object of that, of course, was to give confidence to parties in England who might be willing to purchase these seven per cent. bonds. The prospectus goes on to say that this line of railway crosses the State of Michigan; that it runs parallel with, but at a distance of more than forty miles from, the Michigan Central Railway; and that its eastern terminus is Detroit, where it connects with the Great Western, and its western terminus Grand Haven, opposite to Milwaukee, on Lake Michigan.

Mr. M. C. CAMERON—We are not objecting to your reading and referring to all this, but I really cannot see how it is to affect us.

Mr. ECCLES—It is the commencement of the transactions out of which this suit has arisen.

Mr. M. C. CAMERON—It is merely a document signed by four English Directors of the Great Western, and can have no bearing on this case, which results, as it is said, from an agreement made in Canada between the Great Western and the Commercial Bank.

Mr. ECCLES—Then you admit it is the prospectus?

Mr. M. C. CAMERON—There is no doubt it is a printed prospectus.

Mr. ECCLES—I don't want to waste a moment's time, but I thought this a material part of our case, because the further back we can trace the connection between these two railway companies, the stronger will be the evidence of the dealings which we attribute to them. What we desire to show is, that we lent the money to the Great Western Railway Company, and that they lent the money to this American Railway Company; instead of which they say,—"You lent the money directly to the American Railway Company, and

never to us ;" and I have read you one or two passages from the prospectus, shewing how the connection between the two companies was first formed. The American Company issue their prospectus ; and in it they say that the eastern portion of their line terminates at a point near that of the Great Western ; and to make everything certain and sure, they, in effect, add :—" And all the English Directors of the Great Western are trustees for the holders of our bonds." The prospectus then goes on to set forth a contract with Mr. Wythes, the well-known English contractor, who constructed the Toronto and Hamilton Road, for the completion of the line before the 1st of August, 1867, and winds up as follows :—" An exclusive traffic agreement has been entered into between the Directors of the Detroit and Milwaukee, and the Directors of the Great Western Railway Company of Canada, under their corporate seals, for the transport of the passengers and goods over their respective lines ; and it is stipulated, that from the receipts of the through traffic, the Directors of the Great Western shall retain a sufficient sum as trustees to meet the interest on the bonds now issued. The London Directors of the Great Western will, as such trustees, be responsible for the application of the moneys thus coming into their hands." This prospectus is dated July, 1866. It would not probably be evidence of any very material fact. But it is material to this extent, that it sets forth an existing contract between two railway companies for uniting their roads, as it were, for one common line of traffic ; and asserting, as it does, that the Great Western were to retain the through-traffic receipts, so as to secure the purchasers of these bonds in their interest. The next step we find them taking is, after advances had been made—or probably even before those advances had been made by the Great Western Company to this American Company, by way of securing to the Great Western Company the repayment of all such advances and interest thereon, two mortgages are executed under which the Detroit and Milwaukee Company agree to convey to Messrs. Brydges and Reynolds and to Mr. Becher, of London, C.W., also a Director of the Great Western, all the property of that company, consisting of their line of road, all their franchisees, and all their rolling stock, in security to them as trustees for the Great Western Railway Company, or the holders of their new issue of bonds, for all advances made. We are now going to shew you that the Great Western never advanced any money to the Detroit and Milwaukee, save and except the money they got out of our Bank. They got the money from us, and expended it on the American Road—perhaps, also, they paid off some of the floating liabilities of the American Company,—and these same Directors took to themselves a mortgage on the line of road to secure the advances. This, then, is the first position. When all was made secure to them—when what was nominally the Detroit and Milwaukee Company, but which company had in reality been completely extinguished—when this company failed to repay, as in point of fact they were never expected to repay this money to the Great Western, Messrs. Brydges and Reynolds, who appear in so many different characters, and who represent so many different interests, that it is almost impossible to understand the exact position they occupied on each separate occasion. I say we find these two gentlemen, to whom mortgages had been given in the capacity of Trustees for the Great Western, commencing proceedings in the Courts of Michigan, upon mortgages held by them for the purpose of foreclosing or selling all the property contained therein. We find, on behalf of the Detroit and Milwaukee Road, the debtors of the Great Western, their Counsel appearing in Court and saying, " We have no defence to offer. We admit that all the money secured by these mortgages has been advanced by the Great Western." You will see, gentlemen, that they say nothing about the Commercial Bank—" We admit that the money has been advanced by the Great Western to us, and they are entitled to be repaid, both principal and interest. But we are unable to pay, having no funds, in fact, to pay with ; therefore they are empowered to sell the road." And the decree of the Court was issued in accordance therewith, and the road was sold. We have now Messrs. Brydges, Reynolds, and Becher, appearing in another capacity, as the purchasers of the road. They buy the road under the decree, and become the proprietors of it. I understand that by a general law of the United States, the mortgagees of a railway may proceed just as these mortgagees did, and sell it. They are thus the purchasers of the road, and, as such purchasers, they become *ipso facto*, by this act, an incorporated railway company, enjoying all the privileges of the old company, standing in their shoes as it were, but with this peculiar privilege attached, that all the debts of the old company are wiped out, or, in other words, leaving the new company free from their responsibility. They become an incorporated railway company, owning all belonging to the old company, but free from the liabilities of the old company in the nature of debts or obligations. Now, if you see as I see the peculiarities of this transaction from beginning

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to end, you must acknowledge that it certainly is a most ingenious plan to pay off old debts, if not one quite worthy the representatives of English shareholders. I don't like to use harsh words, and I will simply remark that we sometimes hear American institutions spoken of as swindling societies; but here we have a transaction of two English gentlemen, representing a number of other English gentlemen, combining with an American company for the purpose, as I trace it, of being able, through a premeditated plan, to get a million of dollars from the Commercial Bank, to be expended on making a railway, which, when completed, they take hold of under a mortgage, and thus wipe out the debt. You see, gentlemen, they first borrowed the money, they then took security on the road, they next spent this money in completing it, they got it in running order, took proceedings in Chancery in the names of these three gentlemen who acted as trustees, and bought up the road. They said, "It is true we built this road with the Commercial Bank's money; but the Commercial Bank advanced it to the Detroit and Milwaukee Company. We have purchased the road under a decree in Chancery. By law we legally hold it free of all liabilities. And thus the claim of the Commercial Bank to a million of dollars expended on its construction is wiped out, and we are not responsible, because the law of the United States says that the purchaser of a railway under such circumstances does not take with it the liabilities of the original company." You thus see that they have the road and they have the money as well. The old company, if it ever was worth anything, is now not worth a rush. In point of fact, by the very act of the sale of the road I suppose it becomes extinguished. Messrs. Brydges, Reynolds, and Beecher have the road and the million of dollars besides. And they sit there to-day and say to the Commercial Bank, "It is most true that what was advanced to the Company on the other side of the lines was your money, but they are now bankrupt, and you had better run after them and get your million of dollars back." (Laughter.) And these are English gentlemen. (Laughter.) They are the gentlemen, too, who represented the Detroit and Milwaukee Company, and, as I have already stated, they were at the bottom of the whole plot. Perhaps these English gentlemen were very pure when they first came here, but, if so, their running of the Great Western so close to the American city of Detroit has nearly spoiled them. (Laughter.) In this way they have learned things which they never knew before. As they advanced into the interior of the States they seem day by day to have got worse and worse, and I fear that if they continue they will be just as bad as the Yankees themselves by-and-by. (Laughter.) Now, that is the position in which matters were placed. All we say is this, "Take your railroad; do what you like with it; but as you ought not to have built it with a million of dollars out of the exchequer of the Commercial Bank, what we ask is that you should replace the money. Do not let the stockholders of the Commercial Bank suffer. Do not let this transaction of the Bank with you continue before the public to the prejudice of the good name of the institution itself, and to the great injury of its credit and stock. Let the transaction be fully understood, and let the million of dollars be replaced. If we have aided you, do not you defraud us. Let us have back our money, and place us where we were before. This reasonable request is the only request we make." There is a second defence. As I understand it, what I have placed before you is the first. They say, "We never borrowed from you at all. You lent your money to the Detroit and Milwaukee Company, and they are your debtors—not us." I am not at all alarmed at this line of defence. We will very easily satisfy you, gentlemen of the jury, and I defy them to change our position in the slightest degree, that we lent the money to the Great Western and to nobody else. Well, their next line of defence, their next position is, if possible, worse than the other. When I say it is worse, I mean to say that it is more dishonest. Because we cannot imagine anything more dishonest than one person going to another to borrow money and representing that although he borrows for his masters, he has full authority to treat for and to bind his masters to any bargain he might make for them—on the faith of these representations obtaining large sums of money, and when the time arrived for their repayment saying, "My masters never authorized me to borrow the money. When I said I had their authority to do so I told you a lie. My masters never told me to borrow the money I got from you, and therefore my masters are not liable to you for it." Now, here, as I am instructed, we have the second branch of the defence. I am informed that these railway gentlemen will appear before you in the course of this trial, and tell you that the English Stockholders and Shareholders of the Great Western Company being informed that a fine opportunity presented itself of buying up this foreign railway, and being asked to advance certain sums of money for that purpose, met together in due form and passed a resolution, under which resolution Messrs. Brydges and

Reynolds were authorized to do certain things. That resolution provided for the issue out of the funds of the Great Western Company of the sum of £150,000 sterling—monies belonging to the English Shareholders of that Company—for the purpose of completing this Detroit and Milwaukee road, the money to be secured by a lien on the road. They say, "That is what we were authorized to do. To the extent of that resolution and to no greater extent had we authority to deal with you gentlemen of the Commercial Bank; and if instead of borrowing to the extent of £150,000 sterling, we borrowed to the extent of £300,000 or £400,000, we did more than we were empowered to do, and our masters are not responsible." They also say, "It is true that there was a second resolution passed in the same manner by which we were authorized to expend to the extent of £100,000 sterling; but when we had expended to that extent our authority ceased. Thus if we borrowed money from the Commercial Bank to lend to this United States Company to a greater extent than we were authorized to do, our masters are not responsible, whatever responsibility may attach to ourselves." These two resolutions were passed in England—one of them authorizing the directors to lend £150,000, the other £100,000 sterling, to the Detroit and Milwaukee road. I presume that when these resolutions were passed the intention of the Shareholders was that funds should be set aside in England to meet the bills drawn by the Canadian Directors for the two appropriations, amounting together to £250,000 sterling, or \$1,250,000. But instead of doing this, they will tell you they found it more convenient to open an account with the Bank here—to draw out on their cheques the money as it was required to meet the contingencies of the road—and to give the Commercial Bank the exchange on England to the extent of the advances limited by the resolutions passed in England. They will say that they were never authorized to make arrangements with any Bank to do any banking business, and perhaps they will tell you further that the whole of the arrangements they actually did make with the Commercial Bank on account of the Detroit and Milwaukee road were illegal from the beginning, because they had no power to go into a foreign country to own a railway. To dispose of the last objection first, I would refer you to an Act of Parliament passed in 1858, from which it appears that these gentlemen had much mistaken the extent of their authority and powers, that they had done what was illegal by entering into any arrangements at all with the Detroit and Milwaukee, and that in the position in which they then stood all the advances which had been made would be lost to the Great Western if Parliament did not come to their relief. They therefore sought Parliamentary protection against such serious consequences, and an Act was passed declaring that what they had done, though illegal at the time, was by the force of that Act made legal, and that in future what advances they might make should be legal also.

Mr. M. C. CAMERON—There is not the provision of the Act. There is a limitation.

Mr. EGLES—Yes; there was a requirement that the acquiescence of two-thirds of the stockholders should be obtained. The only object I have in view in mentioning this matter is to show that the Act of Parliament legalised what had been done, and gave them authority in fact to lay down their rails and own a road in a foreign country. I do not wish to encumber your minds by the recital of statutes. The learned Judge will settle all questions of law, and leave you to deal with the facts. Well, the point to which I had arrived was this, that in answer to what we shall urge, they will say that it was only a limited authority which was given them by the resolutions passed in England, and beyond this limit they had no power to go; that having gone to the extent of these resolutions, and having appropriated—or, as we shall show presently, misappropriated—these monies, the Great Western Company were no further liable. It so happened that at one time some of the English stockholders thought that Messrs. Brydges and Reynolds were too fast—that they were getting the Company into difficulty—that they were doing things which were not satisfactory to the shareholders and stockholders. To enquire into the state of matters here, they sent out from England certain persons to investigate into the affairs of the Company, and to enquire particularly into the transactions of Messrs. Brydges and Reynolds, with which they were finding fault. These gentlemen, denominated a Committee of Investigation, made enquiry into the acts of Messrs. Brydges and Reynolds, and the information thus obtained was, I suppose, communicated to those who entrusted them with the mission. But whether it went further, I am not prepared to say. I rather think that Mr. Brydges was not the man to let it go further. At all events, nothing further was heard respecting this Committee of Investigation.

Mr. M. C. CAMERON—You are not well read on the subject.

Mr. EECLES—I have only our side of the book to read from. You are a good deal too clever to tell us your secrets.

Mr. M. C. CAMERON—But you ought to know better than to say that nothing further was heard of the matter.

Mr. EECLES—So far as we are concerned, nothing further was heard of it. I will now draw your attention, gentlemen of the jury, to this yellow-covered book. [The book produced was the Report of the Committee, and not the Reply.] I draw attention to it, not with a view of reading its contents as evidence, but I refer to it as a book casting reflections upon Mr. Brydges for misconduct in the management of the affairs of the Company, and in particular with regard to his transactions in respect to the Detroit and Milwaukee road. They brought at all events sufficient in the way of charges against Mr. Brydges to put him on his defence. You will see that Mr. Brydges stood charged by his masters with a breach of that confidence which they had so long reposed in him—with a breach of duty with whose discharge they had entrusted to him. He was bound, therefore, to give a history of the transaction.

Mr. M. C. CAMERON—I would not, if I were you, give a statement of that kind just now.

Mr. EECLES (referring to the scarlet-covered book called "The Director's Reply")—I propose reading and giving in evidence the reply of Mr. Brydges, as Managing Director of the Great Western Railway Company, to certain charges made against him in regard to these and to other transactions, with a view of showing that at that time Mr. Brydges' account of his transactions with the Commercial Bank was exactly the same as our account of them to-day. And if this is not evidence, I do not persist in offering it.

The learned JUDGE—I do not see why it may not become evidence.

Hon. J. H. CAMERON—It is Mr. Brydges' own statement, and I do not think he would object to its being used.

Mr. M. C. CAMERON—The reason why I say that it is not evidence is this: my learned friend says that a charge is made by certain persons connected with the Great Western against Mr. Brydges as to his personal character.

Mr. EECLES—No; I did not say so.

Mr. M. C. CAMERON—And Mr. Brydges' answer to that, surely—

Mr. EECLES—I did not say so. In his official capacity.

The learned JUDGE—If it were in his personal character, I should be inclined to agree with Mr. Cameron.

Mr. M. C. CAMERON—It is a charge made by some of his employers in reference to his conduct as regards the Railway. Now, a charge of this kind, made by such persons, can surely have nothing whatever to do with this affair between the Great Western and the Commercial Bank.

The learned JUDGE—I do not understand that it is proposed to give evidence of the charge. What Mr. EECLES proposes to read is only with a view of getting the answer.

Mr. M. C. CAMERON—But unless the charge is heard, we cannot hear the answer to that charge. Of necessity we shall have to go into the charge before we can get at the answer.

The learned JUDGE—That is not always necessary.

Mr. M. C. CAMERON—My learned friend will not read that document, at all events. It is a printed document.

Mr. EECLES—Such documents are usually read in cases of this kind.

Mr. M. C. CAMERON—At any rate, he must first show that it is Mr. Brydges' answer.

The learned JUDGE—He has not gone into the evidence yet.

Mr. M. C. CAMERON—But he is going to read it without proving it.

The learned JUDGE—He may read it now, and prove it afterwards.

Mr. EECLES—Does my learned friend mean to say that this is not a document issued in Canada?

Mr. M. C. CAMERON—I say it is not the document.

Mr. ECKLES—But I say it is the document, and this is the scarlet-covered book which I am going to read.

Mr. M. C. CAMERON—We will see. I first want a legal decision upon the point.

The learned JUDGE—I understand the rule to be this: that it is always permissible for counsel, in opening a case to a jury, in order to make them masters of it, to read documents or statements, on his undertaking afterwards to make those documents or statements evidence. If subsequently, however, he does not sustain his position, that part of his case falls to the ground.

Mr. M. C. CAMERON—But my learned friend does not say that he is prepared to give evidence of the original document signed by Mr. Brydges himself.

The learned JUDGE—I do not know what he intends to prove. He says he will make this printed document evidence; and printed papers, as you know, may become evidence by being submitted to the proper process of proof.

Mr. M. C. CAMERON—We will not discuss the matter further. I rose to make the legal objection against the reception of the document in the shape in which it was presented; but if your Lordship thinks he may read it, the case can go on. There is nothing in it of which we are ashamed. My learned friend takes upon himself the responsibility of reading the document, and under the circumstances I will offer no further opposition.

Mr. ECKLES—Give us your written copy, if you object to our using the printed paper.

Mr. M. C. CAMERON—Oh, go on.

Mr. ECKLES—But if you will not give us the written document, we will use the printed document. I was about to tell the jury that the only portion of this document which has reference to this particular transaction is headed "Loans to the Detroit and Milwaukee."

Mr. M. C. CAMERON—What are you reading from now?

Mr. ECKLES—Mr. Brydges' answer.

Mr. M. C. CAMERON—You are sure it is Mr. Brydges' answer?

Mr. ECKLES—No, I am not. (Laughter.)

Mr. M. C. CAMERON—There is more in that book than Mr. Brydges' answer.

Mr. ECKLES—But what I propose to read is the reference to the Detroit and Milwaukee loans.

Mr. M. C. CAMERON—Why, it is not Mr. Brydges' answer at all.

Mr. ECKLES—But Mr. Brydges' answer comes next. I will now read from the book: "In answer to this most serious charge, the Directors beg to state that the letter referred to, from Mr. Trowbridge"—

Mr. M. C. CAMERON—But surely the Directors are not Mr. Brydges.

Mr. ECKLES—Mr. Brydges is one of them.

Mr. M. C. CAMERON—But this is an answer of the Directors.

Mr. ECKLES—We take it as the answer of as many of them as we can get—the more the better. "In answer to this most serious charge, the Directors beg to state that the letter referred to from Mr. Trowbridge was not opened by, or seen by, any Member of your Board till two or three days after the Meeting. Mr. Baker, as well as Mr. Brydges, fully explained to the Committee the circumstances under which this happened, that detailed at length in Mr. Brydges' letter in the Appendix. The assertion of the Committee, therefore, that the Chairman, after having read that letter previous to the Meeting, deliberately made statements to the Shareholders at variance with it, is a groundless and unworthy calumny. After the authority to make the Loan was obtained, it unquestionably came to the knowledge of your Directors that the Detroit and Milwaukee Company were more deeply involved than they had reported themselves to be when they made their application for the

loan. This circumstance, however, only made your Directors more cautious as to the application of the money, and to ascertain whether it would accomplish the main object of opening the Line. They immediately issued instructions that Mr. Reynolds, the financial manager of the Great Western Company, should scrutinise the books of the Detroit and Milwaukee Company. He did so, and reported to your Board on Nov. 2d, 1857, that whatever might be the involvement of the Detroit and Milwaukee Company, the advance of £150,000 would be sufficient to meet the claims of the secured creditors, and open the Line." There is the first point. Probably you, gentlemen of the jury, do not know the manner in which they proceed at their meetings. If not, I will just tell you. Mr. Brydges or Mr. Reynolds takes the chair, and Mr. Beecher sits by with his tin box, filled with proxies, gathered up from all parts of creation. The meeting is opened. Mr. Beecher causes the proxies in the tin box to vote as Mr. Brydges wants them to vote, and the thing is accomplished. (Laughter.) See how plainly he sets forth the transaction at that time, as we make it manifest to-day. He says, before the Great Western people make the loan, Mr. Reynolds must go to Detroit and overhaul the transactions of this American company, so as to satisfy himself that the £150,000 sterling will suffice to pay off the debt and complete the road. Mr. Reynolds went to Detroit, and found things, as he thought, to his satisfaction, though afterwards it was discovered that the Detroit and Milwaukee Railway was more deeply involved than it was at first represented to be. At this time they found it all right on the surface, but there were troubled waters beneath, as they found to their sorrow after the advances were made. The report then proceeds:—"Whilst his inquiries were pending, your Directors felt bound to protect the credit of the Company by advancing the money required for the payment of the interest, which they consented to do to the extent of £20,000. With respect to the proper application of the loan, a series of resolutions appear upon the minutes, under date October and November, 1857, laying down a strict code of instructions for its disposal, the last of which is as follows: 'That it be left to the discretion of Mr. Brydges and Mr. Reynolds, after complete investigation of the Detroit and Milwaukee accounts, and after having made such arrangements with the creditors forming the floating debt as they may deem satisfactory, to close up existing sub-contracts for works, Mr. Wythes having expressed his willingness to relinquish his contract on payment of a balance not exceeding £5,000 due to him, or to stop all further expenditure on the works except what is actually necessary for working the Line, or to cause the continuance of the works to be proceeded with as far as or beyond the Grand Rapids, it being well understood that the basis of any advance of funds by the Great Western Railway for this purpose is that the expenditure shall be wholly under the direction and control of Mr. Brydges and Mr. Reynolds, and that such outlay shall not in any manner be jeopardised by the claims of existing creditors of the Detroit and Milwaukee Company.' Armed with this authority, Mr. Brydges left England on the 14th and arrived in New York on the 26th November, 1857, to take such steps to secure the completion of the Line as, after due investigation and successful arrangements with the creditors of the Detroit and Milwaukee Company, he and Mr. Reynolds might consider most desirable. Immediately on his arrival in America, these gentlemen applied themselves to carry out the orders of the Board; and, on the 28th December, 1857, they addressed their first detailed Report upon the subject to the Board in London, stating the arrangements they had made with the secured creditors for the postponement or payment of their debts, and also for the carrying on of the works, so as to effect the immediate completion of the Line."—So that Mr. Brydges, it appears by this, which is the Report of all the English Directors of the Great Western, notified the Company in England of what he had done on his arrival in the United States from England. Then the Report proceeds:—"While Messrs. Brydges and Reynolds were thus occupied in carrying out the objects for which this loan was made, they also engaged themselves in obtaining security for the repayment of the money."—You will understand, gentlemen of the jury, that Mr. Brydges took security for this money—the money which we lent.

Mr. M. C. CAMERON—But you don't seem to understand it at all. You are entirely mistaken.

Mr. ECCLES—The gentlemen of the jury will understand it. But the defence which is to be set up here to-day neither they nor anybody else will be able to understand.

Mr. M. C. CAMERON—I can understand it. The security here referred to is for the \$1,200,000 which we, and not you, have advanced to the Detroit and Milwaukee Railway. It is not a matter which concerns you at all, but us.

Mr. Houlton—Gentlemen, they make their case worse and worse. I did not think it was half so bad before. So it appears that when they came and told us that they wanted our money expressly for the purpose of expending it on the road, what they really did want it for was to pay off their old debts. Really it is enough to make one's hair stand on end to hear these English gentlemen instruct their Counsel to make their conduct appear a great deal worse than even we supposed it to be. But to continue the quotation:—“That security was certainly as complete as the Detroit and Milwaukee Company could offer. A third mortgage was effected in favour of three members of the Canadian Board of the Great Western Railway, securing to those gentlemen, as Trustees, the whole of the Detroit and Milwaukee Line, and placing the whole of its affairs in the entire control of Directors, to be nominated from time to time by the Great Western Company, the deed of the mortgage being most stringent in its covenants. About this time, the embarrassed state of the London money market began to interfere so seriously with the contemplated arrangements for advancing money to assist the Detroit and Milwaukee Company, that the Directors wrote to Mr. Brydges the letter of December 18th, 1857, referring to the Committee, impressing very strongly upon him the necessity for exercising additional caution, and strictly forbidding him from entering into any engagements on their behalf; this letter did not reach Mr. Brydges until the 9th January following, before which time Messrs. Brydges and Reynolds had made all their arrangements in pursuance of the instructions given to Mr. Brydges when he left England on the 14th November, 1857. These arrangements being in accordance with the powers granted to Messrs. Brydges and Reynolds, and the money market having materially amended, the Board did not hesitate to confirm them in their letter of the 26th January, 1858.” It thus appears that whatever acts Mr. Brydges and Mr. Reynolds had been guilty of the Board, on the 26th January, 1858—and when I speak of the Board I mean Mr. Brydges, Mr. Reynolds, and Mr. Becher’s tin box—had approved of every one of them. “Your Directors do not deny,” the Report goes on to say, “that they have been disappointed in their expectations of the Detroit and Milwaukee connection; but it is one thing to be mistaken, and it is quite another thing to have misrepresentation imputed to them.” They are right there. It is one thing to be mistaken and another thing to misrepresent. We were very much mistaken when we lent the money, which is one thing; but they made misrepresentations in order to get it from us, which is quite another thing. They represented everything to us as being in the most prosperous state. They represented that every shilling they wanted out of our coffers was to make the road complete, so as to cause it to pay. And to-day you will be told that the money they got from us was not expended on the road, and that the bills which they promised to draw in our favour for the advances were never given us. The Report goes on to say:—“And it is to be observed, that the bargain, even taking the least favourable view of it, is by no means a disadvantageous one for the Great Western Company. For this advance, and for the advance of £100,000 which was subsequently made, also upon mortgage, the Great Western Company of Canada have secured to themselves the absolute control of this important line of Railway, 185 miles long, running through a thriving and improving territory, and securing to our Line the monopoly of the traffic of the great Western States of America passing in transit through Canada. Your Directors would venture to ask their Shareholders, what railway company would not gladly purchase for £250,000 the entire control over 185 miles of railway, forming an extension of its own system? It must be remembered that ever since the Line was opened we have had a succession of bad harvests, but for which it would have been in a very different position.” You see, gentlemen, how beautifully Mr. Brydges paints the fair prospect to his masters at home, when trying to justify his acts in lending their money, borrowed from the Commercial Bank, to this bankrupt company in the United States. In what glowing colours he shows to those at home the manifold advantages of securing a line of road 185 miles in length, “running through a thriving and improving territory, and securing to our line [the Great Western] the monopoly of the traffic of the great Western States of America passing in transit through Canada.” And what railway company would not rejoice, he asks, at being able to obtain all these advantages for £250,000? They thought it a most splendid opportunity for speculation, and so thinking they induced us to lend our money to help them in the project. But where are the Detroit and Milwaukee Company to-day? Alas! they are no longer in existence. But Messrs. Brydges, Reynolds, and Becher reign in their stead. Then the report goes on to shew what the traffic through amounted to, and to set forth the disadvantages which would have resulted had the Great Western not secured this Detroit and Milwaukee Railway:—“If instead of

securing this Detroit and Milwaukee Line, your Directors had neglected to obtain the control of it, and had allowed it to pass into other hands, what then, they will venture to ask, would have been the position of the Great Western Company? The Grand Trunk would have been in competition with us at Detroit under circumstances of great advantage to that Line. The trade of the northern portion of the State of Michigan, now secured to our company, might have been carried by the Grand Trunk, and in so far the through traffic of the Great Western would have been materially damaged." Right again, gentlemen. Mr. Brydges is right in every page, and in every line, of this report. I ask you also to take it as the true state of affairs. Ask yourselves who dealt with the Commercial Bank and with the Detroit and Milwaukee Railway. The thing is plain. The Great Western borrowed the money from the Commercial Bank to buy up this railway. Mr. Brydges told the story correctly enough in this report. Take that report, and his story and ours will agree in every respect. The next charge to which the report replies is rather an amusing one. It is part of what we call the *res gesta*, and perhaps it is a material part. It comes under the head, "No. 3," and relates to the allegation that the Directors had been bribed by the Detroit and Milwaukee Company to effect these arrangements. Now, gentlemen, they were never bribed. They may have been deceived, but I do not think they were bribed. The Detroit and Milwaukee Company gave them something afterwards by way of quieting their tempers; and, being Englishmen, of course, their tempers were very warm. "The Committee allege this bribe to have been administered in the form of a gratuity of £2,400 to be paid 'to the members of the London Board, and the staff at the office,' together with 100 Shares of the Detroit and Milwaukee Company, 'fully paid up,' which were transferred into the names of 'each of the Six Great Western Directors.' The simple facts are these:—By the arrangement under which the Detroit and Milwaukee Railway was placed in the sole control and management of the Great Western Company, it was agreed that the London Directors of the Great Western Company, as well as Messrs. Brydges and Reynolds in Canada, should become Directors of the Detroit and Milwaukee Railway in order to protect the interests of your Company. For this purpose it became necessary that they should be duly qualified as Directors of the Detroit and Milwaukee; and, accordingly, 100 Shares were duly transferred into the names of those Directors, for the purpose of affording them a qualification. But it was understood that upon resignation of office each Director would return these Shares to the Company." Gentlemen, did you ever hear of so gross a piece of fraud being before perpetrated? They say, "We did not get a bribe, but we took shares." Took shares! For what? To make the people believe that they, the Directors of the Great Western Railway, were *bona fide* Shareholders in this rotten concern, and so lure them on to invest their money in the same disreputable undertaking. They thus stamp themselves at once with an act of fraud; and they surely cannot complain if we charge them with the same thing. "Accordingly," they proceed, "Mr. Hoyes on his retirement from the Detroit and Milwaukee Board, in November, 1859, returned there and then his one hundred Shares. Mr. Govan on his retirement did the same, and the Executors of Admiral Laws have also returned the Shares formerly held by that gentleman. Messrs. Gill and Cullen, as also Messrs. Brydges and Reynolds, being still Directors of the Detroit and Milwaukee Company, of course, retain their respective qualifications. Your Directors have further to observe, that the Committee of Investigation were fully acquainted with these facts when they imputed to your Board that the 100 Shares were transferred to and accepted by each member of your Board for a corrupt purpose." Well, gentlemen, if this was not a corrupt purpose, I do not know what is! "As to the remuneration," they say, "derived from the Detroit and Milwaukee Company such members of your Board as participated therein had no idea or intention that that Company was to have the benefit of their services, whether as Agents or as Directors, without remuneration. The business committed to them occasioned much care and anxiety, and the sums allowed for their services were far below what they must have cost that Company, had any other agency been selected. Whatever difficulties a railway may be involved in, it has never yet been suggested that those difficulties should be overcome at the sacrifice of gentlemen giving up their time and their labour to the task without remuneration." I don't know, gentlemen of the jury, that I need read any more from this book. A great deal is said by these gentlemen in defence of Mr. Brydges' acts, but probably, I have quoted sufficient for every purpose. Simply take the history of these transactions as written by the Board of Directors in defence of their own acts, and in defence of the acts of Messrs. Brydges and Reynolds—take their own account, given to-day in this red book as the correct one; and it is evident that there was never any connection existing between the Detroit and Mil-

waukees Railway and the Commercial Bank; but that the Great Western bought up the Detroit and Milwaukee for the purposes set forth in the report, and that the money with which they did it, came out of the Commercial Bank. There are other *minutiae* which will be referred to as leading to the same conclusion. For instance, we shall refer to transactions from time to time in connection with the evidence of Mr. Park, the gentleman who was the Hamilton Agent of the Bank, and with whom most of the business was done. We shall produce his returns, which, according to the usage and custom of the Bank, are made up by each Agent at the end of every week. I will read you one, in order to show you how Mr. Park returned the several accounts.

Mr. M. C. CAMERON—What are you going to read now?

Mr. EECLES—Mr. Park's weekly return.

Mr. M. C. CAMERON—But we have nothing to do with that.

Mr. EECLES—Who have not?

Mr. M. C. CAMERON—We have not.

Mr. EECLES—We have though.

The learned JUDGE—Mr. Eccles will prove it, I suppose, in the usual way.

Mr. M. C. CAMERON—They have an account with us, and that they may use. But this is not a return made to us or ever shown to us.

The learned JUDGE—I understand that.

Mr. M. C. CAMERON—What a man's servant does with himself surely cannot be evidence against a stranger?

The learned JUDGE—It is only evidence in so far as it shews the nature of the transaction.

Mr. M. C. CAMERON—But my learned friend has no right thus to shew the nature of the transaction if it affects us. And if it does not affect us, it is idle for him to read such a statement, and it is wrong to receive it.

The learned JUDGE—(To Mr. Eccles) What is it for?

Mr. EECLES—In connection with Mr. Park's evidence, we desire to shew his weekly returns, seeing that he transacted all this business.

Mr. M. C. CAMERON—But I say that we do not want his weekly returns.

Mr. EECLES—Supposing Mr. Park says that these are true statements of account made at the end of each week?

Mr. M. C. CAMERON—Still I do not care. They were never shown to us. However, I will not take up any further time. I simply desire your Lordship to note the objection. If they are to get advantage by this kind of evidence, I wish it to be understood that the evidence is not received by me, at all events, through ignorance of my duty.

The learned JUDGE—I will take a note of your objection.

Mr. EECLES—That my learned friend takes exception to my address to the jury?

Mr. M. C. CAMERON—It is not an exception to your address.

Mr. EECLES—But there has been no evidence offered yet.

Mr. M. C. CAMERON—Still you are going to read it as evidence.

Mr. EECLES—And if I cannot prove it it will be struck out of course.

Mr. M. C. CAMERON—You will have to prove it now.

Mr. EECLES—Yes; I will prove all I state to the jury. Mr. Park made out every week his account of the transactions with the Great Western Railway, and transmitted it to Kingston, in order that the Manager of the Bank here might see how the business stood at Hamilton, and the balances due from the Great Western to the

Commercial Bank. Mr. Park, when he goes into the box, will say that these returns are correct—that such and such balances were due from the Great Western at the end of every week. And, if this is not evidence I confess I do not know what evidence is.

Mr. M. C. CAMERON—You will observe that we have been served with a certain bill of particulars of monies with which we are charged.

Mr. ECKLES—Which bill of particulars is a copy of these returns.

Mr. M. C. CAMERON—You will find the bill of particulars altogether different from these accounts.

Mr. ECKLES—You have seen them, then?

Mr. M. C. CAMERON—No; I go upon your statement.

Mr. ECKLES—But I have stated nothing at all as yet. You will see, gentlemen of the jury, how Mr. Park treated those transactions. The Great Western had a general account at the Bank, and Mr. Park makes his entries in regard to that account in this way, "Great Western Railway Company, \$265,000." That was the amount of the balance against the Great Western for that particular week. That is not a transaction in regard to the Detroit and Milwaukee, but relates to their general business, and is called "Account No. 1." Underneath that entry Mr. Park puts, "Ditto, D. & M. account." That is to say, "Great Western Railway Company Detroit and Milwaukee account,"—just treating the Great Western as the debtors, and adding the initials "D. & M." to shew that they were the debtors on the Detroit and Milwaukee account. And so the accounts are distinguished in these returns during the whole of two years. Mr. Park will tell you that the amounts set forth in these accounts are correct, and that he uses the letters "D. & M." for the purpose of distinguishing one branch of the Great Western Railway Company's account from the other, according to the arrangements made in his presence at the Bank. I will now shew you the manner in which Mr. Reynolds, the financial manager of the Great Western, treated this transaction. I hold in my hand a memorandum which he sent in as the basis of an application for an extension of credit. It is as follows:

Present D. & M. Dr. Balance	\$288,000
Provisions for Coupons in May, say	42,000
" " Bills " "	60,000
	\$390,000

ASSETS AT 31st MAY.

G. W. Balce, at credit 23rd April.....	\$35,000
Average weekly rec'ts, to 31st May.....	250,000
" " rec'ts. D. & M.—5 weeks.....	60,000
	\$345,000

LESS.

Wages, &c., G. W.	\$50,000
" " D. & M.	25,000
Wyandotte Bond.....	90,000
	165,000
	\$180,000
	180,000
	\$210,000

You will see that he mixes up the affairs of the Great Western and the Detroit and Milwaukee as one transaction. His object was to shew to the Bank what amount would probably be required to be overdrawn on the two accounts. On the Great Western account proper, Mr. Reynolds had the privilege of overdrawing to the extent of \$200,000, and he was now asking for leave to overdraw on the Detroit and Milwaukee account to the amount of \$100,000. He says that the amount of the overdraft on the two accounts put together would be less than the \$300,000, shewing that Mr. Reynolds treated the affair as one transaction. The two

accounts united were to be kept within \$300,000, and as one account went down the other was to be allowed to go up. We said that we did not care—that it was a matter of perfect indifference to us—whether they borrowed the money on account No. 1 or on account No. 2; only they were to be sure and not overdraw on both accounts a greater sum than \$300,000—that if they got that amount on account No. 2, account No. 1 was to be kept clear of any overdraft, and vice versa. In addition to what I have read, there are a series of letters which, if I were to read to you in full, would probably keep me here until sunset this evening; and I am not disposed to delay you with any further comments on that head. I think that what I have already stated must satisfy you that the Bank never lent the money to any one but the Great Western Railway Company. The money was so lent on the faith that what Messrs. Brydges and Reynolds represented was true—that if the Bank gave credit to the Great Western, the Great Western would give their bills on England, so as to keep the account secure. Everything was done in good faith on the part of the Bank; and we do feel grieved, most seriously grieved, that, after all that accommodation was granted, after all the confidence we had placed in these officers, after all the faithful promises made by them in behalf of the Company, they should now, when the money of the people who own stock in the Bank is spent on their road by the Great Western—turn round and say—“We are not going to repay you, because you lent this money to the Detroit and Milwaukee Road”—a road which is extinguished—dead. I say we naturally feel grieved at their not doing what honest men ought to do; and it is very justly held that a company should deal in the same good faith as an individual. The matters I have related to you I shall prove, because they must go in as part of our case. The only comment I shall make will be this—that from the beginning to the end of these communications, wherever you find a letter written by Messrs. Brydges and Reynolds jointly, as most of them were, or by them individually, as some of them were, you will never find them for a moment saying other than if we gave them overdraft the Great Western Railway Company would hold themselves liable for its repayment. They always wrote from the Office of the Great Western Railway Company, in Hamilton, and signed themselves Managing Director and Financial Director of the Great Western; and in every one of their letters they spoke of the transaction as I am now speaking of it—as a transaction of lending and borrowing between the Commercial Bank on the one side, and the Great Western on the other. They never said anything to the contrary until they found their expectations in regard to the Milwaukee Road disappointed, and their returns not forthcoming; and then they asserted that all our dealings had been with this Company in the United States. We helped them to set down their rails—the money they received from us they expended in a foreign country—and all went on well enough until they saw that the returns were not likely to be sufficient to pay the interest on the bonds; and then, to use the expression of Mr. Brydges himself, they were placed in a dilemma. They thought they must fulfil their contract, and do what they promised when they began. This was the view they took in the first instance. But having took counsel with the gentlemen on the other side of the line, they saw another course open to them. It was suggested that by a roundabout, but dishonourable, way they might avoid carrying out their agreement, and wipe out the debt of the Commercial Bank, making them the losers by the failure of the Detroit and Milwaukee scheme, instead of the Great Western. I will presently show you one of the bills which they drew. As I have explained to you, the arrangement was that for all advances made on the Detroit and Milwaukee Road, they should at the end of every month give the Commercial Bank a bill on their co-directors in England to cover such advances. That is to say, that they should draw the money out of the Great Western Company's coffers in Great Britain to repay the money advanced in Canada by the Commercial Bank. I hold in my hand the first bill drawn. It is dated February 2nd, 1858, just one month after the arrangement was entered into. The bill reads thus—“Ninety days after sight of this Third of Exchange, First and Second of the same tenor and date unpaid, pay to the order of W. H. Park, Manager of the Commercial Bank of Canada, the sum of £8,000 sterling, value received, which place to the account of the Trustees D. & M. Company,”—meaning Detroit and Milwaukee Company. And how do you think it is signed? “C. J. Brydges, Managing Director; Thos. Reynolds, Financial Director;”—of what? “Of the Great Western Railway Company.” “To the London Board of Directors of the Great Western Railway Company, Gresham House, Old Broad-street, London, England.” Now this bears out exactly Mr. Row's account of the transaction. You see that the very first bill given was given by the Managing and Financial Directors of the Great Western in Canada upon the Board of Directors in London, England, for £8,000

sterling, to be applied on the Detroit and Milwaukee Road account. And so they go on from month to month. For instance, here is another dated 1st March, 1858. Ninety days after eight pay to order of Park, as before, £15,120 sterling, which place to D. & M. account. C. J. Brydges, Managing Director, G. W. R. Co., and Thomas Reynolds, Financial Director. It is addressed to the London Board, in the same manner as the other. Here is No. 3 of precisely the same kind. It is for £13,750 sterling; and it is signed and addressed in the same way. Then comes No. 4, dated 1st May, 1858, for £13,750 sterling. It is couched in the same terms as the other, and signed and addressed in the same way. Nos. 5, 6, and 7 are precisely similar with this one exception, that in the latter I notice the words, "which place to the account of D. & M. advance." There were some eight or nine of these bills all drawn by the Managing and Finance Directors of the Great Western in Canada upon the London Board of Directors of the same Company in England. These bills on the face of them shew that they are drawn on account of the Detroit and Milwaukee Railway Company, which is precisely what Mr. Ross will tell you he bargained for. They did not come to us as punctually as they ought to have come, but when they did arrive they were placed to the credit of the Great Western Company, on the Detroit and Milwaukee account. And after giving them credit for all these bills, there still remained due a balance of upwards of a million of dollars. I will now read to you a letter written by Mr. Brydges, as Managing Director of the Great Western, and by Mr. Reynolds, as the Financial Director of the Company, and dated 16th December, 1858. I have already remarked to you, from some casual observation which fell from Mr. Brydges, Mr. Reynolds or Mr. Stephens, the Secretary of the Great Western, Mr. Park saw at the end of 1858, that they were trying by degrees to shift the account from their shoulders to the Detroit and Milwaukee Road. Mr. Park, seeing this, at once became alarmed, and wrote down to Mr. Ross, and that led to an interview between Mr. Campbell, Mr. Reynolds and Mr. Park. At that interview those who spoke on behalf of the Bank said they feared that Messrs. Brydges and Reynolds were trying to shift the responsibility of the Great Western Company to the shoulders of the Detroit and Milwaukee Company, and they wished those gentlemen to define, by means of a letter, precisely what their position was—what was the original agreement or understanding—so that they might place it on record in the Bank, and thus remove all further doubt on the matter. That was near about the end of the first year's transactions. The effect of that interview was to call forth the following letter:—

"GREAT WESTERN RAILWAY,
"HAMILTON, CANADA WEST,
"16th December, 1858.

"W. H. PARK, Esq.,
"Commercial Bank.

"DEAR SIR,

"With reference to the conversation which took place yesterday between you and Mr. Campbell and Mr. Reynolds, upon the subject of the Detroit and Milwaukee Railway Company's account with the Commercial Bank, we beg leave to state that the Great Western Company holds itself liable to the Commercial Bank for all overdraft on the D. and M. Company's account with the said Bank.

"This is quite understood by us; but as you expressed a wish to have it placed on record, we now do so by means of this letter.

"Our D. and M. plans were so fully discussed between you and Mr. Reynolds yesterday, that we do not deem it necessary to advert to them now.

"We are, dear Sir,

"Yours very truly,

"C. J. BRYDGES,
"Managing Director, G. W. R. Co.

"THOS. REYNOLDS,
"Finance Director, G. W. R. Co."

In that letter you will perceive that these gentlemen say—"We hold—(that is, the Great Western Company) hold—ourselves liable to the Commercial Bank for all advances and overdraft on the D. and M. account."

Mr. M. C. CAMERON—The word "advances" is not in the letter.

Mr. BOULES—"Overdraft" is though, and I wonder, if that is not an advance.

Mr. M. C. CAMERON—But when you read a letter I don't wish you to insert anything in it which it does not contain.

Mr. BOULES—My learned friend is mistaken. I was not reading it. I was only giving the effect of it. The letter speaks of "overdrafts," and it is for overdrafts we are now suing. Having said that the Great Western Company hold themselves responsible for all overdraft, they go on to say:—"This is quite understood by us; but as you expressed a wish to have it placed on record, we now do so by means of this letter." Here, then, they briefly and plainly set forth what was the real position of the transaction, and how they had always understood it, in order that it might be properly recorded on the Bank books. "Our D. and M. plans," say they, "were so fully discussed between you and Mr. Reynolds yesterday, that we do not deem it necessary to advert to them now." And fully discussed they were, as Mr. Park will testify. All their plans were laid before Mr. Park on the day this letter was written. They told him how that their returns were to go to meet the liabilities of the Bank, and thus to keep down the overdraft account. But as Mr. Park had asked them to write something so as to shew that they were not going to shift the responsibility, they gave the Bank this letter; and on the faith of the letter the account was allowed to proceed. I am not aware of there being anything upon which I need further comment. The evidence which will be offered need not be very long, as each individual officer of the Bank can tell his story in a very few words. But the sum total of it all will be just as I have stated it to you. The arrangements will be proved just as I have described them, and the dealings precisely as I have represented them; and such being the case, as soon as the evidence is gone through, we shall ask you to give us your verdict. I have not spoken as to the line of defence which I understand is to be offered here to-day. On that head, all I can say is, that this is not one of those cases in which the defence is set forth at length on the record. Their only plea is—"Never indebted,"—a plea which lets in all kinds of evidence, and admits of a general defence. As, however, they are not obliged to tell us beforehand what the nature of that defence is, we can say no more on that head for the present. You will hear from the learned Counsel for the Great Western, when he has given you his evidence, what this defence is; and when he, and all the other learned Counsel associated with him, have concluded, my learned friend, Mr. Cameron (J. H.), will give you his views on the law, as advanced by the Company, and he will comment ably and skilfully, as he always does, on the facts which may be offered. My duty is now discharged, except so far as the calling off witnesses is concerned; and by calling and examining those witnesses, I think I shall be able in a short time to satisfy you of the correctness of all that I have brought under your notice.

Hon. J. H. CAMERON—I now want from Mr. Brydges the resolution of the General Meeting of the Great Western shareholders, held on the 8th October, 1857, and at which the advance of £150,000 sterling was authorized.

Mr. M. C. CAMERON—Mr. Brydges is not the officer who has control of the minutes.

Hon. J. H. CAMERON—Mr. Brydges can say for himself whether he has them or not. I do not want to disturb Mr. Brydges from his comfortable seat; but if the minutes are not forthcoming, I shall be compelled to put him into the witness box.

Mr. BOULES—I saw about a cart-load of books and papers coming into court just now. (Laughter.)

Hon. J. H. CAMERON—Perhaps that's how it is they are taking so long to sift them. (Renewed laughter.) The second thing I want is the letter of Mr. Trowbridge, of the 24th December, 1857, received by Mr. Brydges in London.

Mr. M. C. CAMERON—We do not produce it.

Hon. J. H. CAMERON—The question is whether you have got it or not.

Mr. BRYDGES—I have not got it.

Hon. J. H. CAMERON—Then where is it? It was written to you. [A pause, but no reply.] Very well. Then give us the letter of the Secretary of the London Board of Directors to Mr. Brydges, and dated 18th December, 1857.

Mr. M. C. CAMERON—We will produce it, but we object to its admissibility.

Hon. J. H. CAMERON—And the letter of the 28th December, 1857; or in default of the original, a copy. Also a letter of the 30th December, 1857—one from Messrs. Brydges and Reynolds to the London Board, and another from the London Board to them.

Mr. M. C. CAMERON—We have not the original.

Hon. J. H. CAMERON—Then, we will take a copy.

Mr. M. C. CAMERON—No; you will not take a copy. You have not subpoenaed the officer who has got it. It is in England.

Hon. J. H. CAMERON—But it is our right to have it here. I want also the reply of the President and Directors of the Great Western Railway to the Committee of Investigation. I desire a copy of No. 14 on the notice, on the ground that the original is in England, and they do not produce it. I therefore request your Lordship to note it.

The learned JUDGE—Yes; I will take a note of it.

Mr. W. H. Park was then called and examined by Hon. J. H. Cameron:—

Question.—Mr. Park, I believe you were in the year 1857 in the employment of the Commercial Bank of Canada, at Hamilton? Answer.—I was.

Q.—In what capacity? A.—As Manager of that branch of the Bank.

Q.—At that time, had the Bank any account with the Great Western Railway Company? A.—It had.

Q.—At what period did the Bank take up the Great Western Railway Company's account? A.—I think it was in August or September, 1857.

Q.—With what Bank had the Great Western been banking with previously? A.—With the Bank of Upper Canada. They had an account at the Hamilton branch of the Bank of Upper Canada.

Q.—When the account was taken up with the Great Western by the Commercial Bank was there any sum of money to be paid by the Commercial Bank to the Bank of Upper Canada? A.—Yes; between \$200,000 and \$400,000.

Q.—Do you recollect at what time and under what circumstances any communication was made to you in reference to opening an account with the Detroit and Milwaukee line, and by whom was that communication made? A.—Yes; I recollect the circumstances.

Q.—What were the circumstances, what was the time, and who were the parties who made the communication? A.—Mr. Reynolds, the Financial Director of the Great Western Railway Company, and resident at Hamilton, called upon me in the fall of 1857 at the bank, where the Great Western had their regular account. He said that the Great Western had decided on taking up the D. and M. line, if everything was right, and they intended to carry it through. They were going to take it up, if they found everything right, and they could get the legal control of it. This was in the month of December.

Q.—What occurred after that? A.—Mr. Reynolds again called upon me at a subsequent period, and said that it was absolutely necessary to take immediate steps to relieve the company from their embarrassments. There were then numerous claims upon the road. It was necessary, he said, that the line should be carried through, but before this could be done there was a quantity of iron and other things to be paid for. He was then saying that the Great Western would have to do all this for the Detroit and Milwaukee, and that a number of the claims would have to be arranged at once.

Q.—That is after he had been up and examined the Detroit and Milwaukee line. On his return he informed you that it would be necessary to take these steps in reference to the Detroit and Milwaukee line? A.—Yes, Sir. The matter is referred to in the letter of the 11th of January.

Q.—But this was before January. We will come to the letter presently. Did Mr. Reynolds at that time make any verbal proposition to you in regard to opening a special account? A.—He said it would be necessary to get a special credit for the D. and M. line itself.

Q.—Did he then make any written application, or was it merely a verbal application which you yourself referred in writing to Mr. Ross at the head office? A.—I told him that I had no authority to give credits, but that I would refer the matter to Kingston.

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Q.—And did you accordingly do so? A.—It was arranged in this way: He said that to correspond with Mr. Ross would involve time, and he had to go to New York to attend to the matter immediately. He therefore desired an interview with Mr. Ross. I accordingly wrote to Mr. Ross, stating what Mr. Reynolds wanted and asking for an interview with him.

Q.—What position is Mr. Ross in at the Bank? A.—He is Chief Cashier at the head office in Kingston.

Q.—In consequence of the communication you had with Mr. Ross, did the interview take place? A.—It did.

Q.—Where? A.—In Toronto.

Q.—When? A.—From looking at the documents, I make it the 29th of December.

Q.—In the month of December, at all events? A.—Yes. The interview took place at the Rossin House, in Toronto.

Q.—Were you present at that interview? A.—I was.

Q.—State what took place? A.—Mr. Reynolds renewed his proposition for a credit. It was simply a request on his part that there should be an overdrawing account allowed to the D. and M. He could not mention the amount, because he did not know exactly what accounts would have to be paid. But he wished to have power to draw.

Q.—What, as you understood, he wanted was an overdrawing account? A.—Yes.

Q.—What was Mr. Ross' answer to the proposition? A.—I do not recollect the exact words, but I know that he declined at once to open a credit with the D. and M.

Q.—By that you mean, I suppose, the Detroit and Milwaukee Railway Company? A.—I do.

Q.—Did Mr. Ross give any reason for declining to open the account? A.—If I recollect right, he said that in its avowedly involved position—the bonds of the company being then at a very low price—he could not possibly open an account with the Detroit and Milwaukee. I am sure that he made some allusion of this kind, although I do not remember the exact words.

Q.—This is in substance what you now recollect to have been his objection? A.—It is.

Q.—What was Mr. Reynolds' answer to this objection? A.—I do not recollect any answer he made. But Mr. Ross said the Bank would open the account as a Great Western account No. 2. Mr. Reynolds said that by reason of the large disbursements then contemplated, in passing the transactions of the two companies through the books at Hamilton, great confusion would arise. He said that in the accountant's office they would often not know the difference between the one account and the other. And he pressed this point so strongly that at last Mr. Ross said,—"We will open the account as 'Detroit and Milwaukee Railway Account—Great Western Railway'—keeping in view throughout the responsibility of the Great Western, and having already pronounced against opening any account of an overdraft character with the Detroit and Milwaukee Railway Company."

Q.—Did the matter so terminate, or were there any verbal instructions given to you? A.—I was instructed to pay the cheques. I did not understand how they were to be signed. But I was instructed to pay the accounts.

Q.—When was the first cheque drawn? A.—On the 30th December, 1857. It was a cheque for \$10,000.

Hon. J. H. CAMERON (to the counsel for the defendants).—Where is that cheque?

Mr. IRVING.—The first cheque seems to have been mislaid.

Hon. J. H. CAMERON.—It is important that we should have the first cheque, but if we are unable to get it, of course we shall have to speak of it from the recollection of parties. I will, if you please, take the second and third cheques presently. The first cheque, then, was drawn on the 30th December for £2,500. Now I shall want the three books—namely, the day-book, journal, and ledger, kept at the Hamilton office, in reference to the opening of the account. [The books were produced.] I now wish to have the first entry of this £2,500, as it appears in the day-book, paid out on the joint cheque, as I assume, of Messrs. Brydges and Reynolds. (To the witness).—How is that entry made?—A. Under the heading of "Credit Accounts," thus, "G. W. R. R.—D. & M. acct., 2500."

Mr. M. C. CAMERON.—But what book are you reading from?—A. The teller's day-book in which the daily transactions are recorded, and in which the first entry is made.

Mr. M. C. CAMERON—Is it in your hand-writing?

Hon. J. H. CAMERON—No; but I will prove the entry by the clerk who made it. This is the day-book, and the entry was made in the day-book in the regular order in which Mr. Park was reading it.

Mr. M. C. CAMERON—But you have no right to read it. He cannot say as a fact that he paid the money.

Hon. J. H. CAMERON—Yes, we have a right to read it. We have a perfect right to read any entry in our books bearing on this transaction. I submit to his Lordship that there can be no question on that point.

Mr. M. C. CAMERON—But you cannot prove your case in that way.

Hon. J. H. CAMERON—Most certainly. It is part of the *res gestæ*. We have shown the amount of the cheque. We will now prove by the books that it was handed in by the company and paid in the usual way.

The learned JUDGE (to the witness)—How was this cheque entered in the books?—A. It was entered—“G. W. R. R.—D. & M. acc.”

Hon. J. H. CAMERON—What is the meaning of “G. W. R. R.—D. & M. acc.?”

Mr. M. C. CAMERON—All that you can show is that the clerk made this particular entry.

The learned JUDGE—But he can certainly use it in his case.

Hon. J. H. CAMERON—I will now ask the witness by whose orders was the entry made in this particular way? A.—The cheque was ordered to be paid by me, and it was so paid by my authority. Those directions were made by me in consequence of the arrangement entered into between Mr. Ross and myself. I explained to the teller, and told him how to make the entry.

Q.—Then that account was carried on without any further memorandum from the day-book to the journal, and from the journal to the ledger. How is the account entered in the ledger? A.—It is the first item which was carried through into the ledger. The entry in the ledger is “December 30th.....£2,500.” And the heading of the account is “Detroit and Milwaukee acc.—Great Western Railway.”

Hon. J. H. CAMERON (to Mr. Irving)—I now want your pass-book with the Bank in reference to the first account. [A book was produced.] (To the witness)—Have you any means of knowing to whom the first cheque was made payable? A.—I have not.

Q.—Was this the pass-book which was kept in reference to this account? A.—There was a pass-book before this. This was the second.

Mr. IRVING—We have no other pass-book but this. This was the first.

Mr. M. C. CAMERON—It begins the account; at any rate.

Hon. J. H. CAMERON—The first account was in pounds, and it was changed to dollars afterwards. There was one entry in pounds, and therefore as a matter of course there must have been another book.

Mr. M. C. CAMERON—We have no book containing such an entry.

WITNESS—There was another book. I recollect it quite well. It was given in the first instance; but afterwards a messenger came from the Great Western Railway office, and, saying that it was not big enough, asked for a bigger book, and this I suppose was the book given in consequence.

Hon. J. H. CAMERON—However, the book now produced contains all the entries from the first?—

Mr. M. C. CAMERON—The first book appears to have been given back for the purpose of having the book now produced made from it.

Hon. J. H. CAMERON—It was not given back to us, at any rate.

WITNESS—Yes, this book seems to contain the transactions from the first.

The two cheque books produced—The accounts were headed thus:—“Dr. The ‘Detroit and Milwaukee’ App’x R. Rd. Co. in acc. with the Commercial Bank of Canada Cr.” (308) page 121.

Q.—Just look at the cheques numbered 2 and 3, and tell us whether they are, according to your recollection, like the first cheque, except as to the first cheque being in pounds instead of dollars—with this exception App’x (175, 176,) was the first cheque drawn in a similar manner to Nos. 2 and 3? A.—I think they were drawn in the same way. No. 3, I observe, is made payable to Mr. Mingay, paymaster of the Great Western, for \$15,000. page 109.

The learned JUDGE—That is Nos. 2 and 3. No. 1 is not produced?

Hon. J. H. CAMERON—Yes; Nos. 2 and 3, my Lord. The character of all the cheques I find is the App’x (177) same, up to and including one of the 14th December, 1858. I see no difference whatever in any of them. page 110.

App'x
(178),
page 110.

(To Mr. Irving)—Now let us see those of 1858. [They were produced and examined by Mr. Cameron.] On the 30th December, 1858, the first alteration in the cheques appears to have been made.

Mr. IRVING—A little earlier.

App'x
(179),
page 110.

Hon. J. H. CAMERON—I see no earlier alterations. But there may have been. In the beginning of December, 1858, I see, there were a number of cheques printed of the Detroit and Milwaukee Railway Company, one of which I will put in as a specimen. The court will see that they are signed, "C. J. Brydgos, President; Thomas Reynolds, V. President;" and countersigned by the Secretary and Accountant. The first of these cheques appears to have been dated on the 6th December, 1858. I will put in one of them as a specimen. The other cheques are the cheques which were given from December, 1857, to December, 1858. This is a specimen of those given in December, 1858, on to the close of the account. (To the witness)—Now, from the time that the account was commenced with the entries you have read from the day-book and ledger, was there any change in the nature of the account ever authorised by the Commercial Bank, or authorised by you as one of the Bank officers? A.—Not in the least.

App'x
(90),
page 90.

Q.—Under what circumstances was it that the communication of December, 1858, took place? Look at this letter of 16th December, 1858, and state to the court the circumstances which called it forth. There was an interview, I believe? A.—Yes.

Q.—What took place at that interview? A.—The interview took place between Mr. Reynolds, Mr. Campbell, who was Inspecting Director of the Bank, and myself. It was held at Hamilton.

Q.—What was that interview about? A.—It was held for the purpose of getting a written acknowledgment that this overdraft account belonged to the Great Western.

Q.—And what was the occasion of your requiring such acknowledgment? A.—Early in the month, a gentleman had called upon me from Buffalo to make an enquiry with reference to the personal standing of Messrs. Brydgos and Reynolds.

Mr. IRVING—This, you say, was in December, 1858?—A. Yes. Early in the month, I think.

Hon. J. H. CAMERON—That enquiry is of no further consequence in this case than that it made an impression which caused you to seek the interview of which you speak. The communication made to you is not a matter of evidence; and I will now ask you,—Did a communication which you received lead you to do anything? A.—I referred the matter to Kingston, and the result was that Mr. Ross directed Mr. Campbell, who was then inspecting for the Bank, to call and get this letter in writing.

Q.—Mr. Campbell went to the Bank at Hamilton, I suppose, and Mr. Reynolds went there and had the interview with him? A.—Yes.

Q.—What was stated at that interview? A.—As far as I can recollect, Mr. Campbell mentioned that we had at that time merely a verbal arrangement in regard to the opening of the account, and he desired Mr. Reynolds to see to it that the Great Western Railway Company put the understanding in writing.

Q.—What do you mean by putting the understanding in writing?—A. The understanding upon which the account was first opened with the Great Western as responsible parties.

Q.—And did Mr. Reynolds make any objection to do so? A.—Not in the least.

Q.—It was in consequence of this then that the letter was written? A.—The letter was the result of that interview.

Q.—But no change was made in the account?—It was always, so far as the Bank was concerned, kept as it afterwards continued to be kept? A.—We called it the D. and M. account, in conversation; but it was quite understood that the Great Western were responsible for the overdraft.

Q.—At any rate, at the interview when the understanding on which the account was opened was asked by Mr. Campbell to be put in writing, there was no refusal on Mr. Reynolds' part to comply with the request, nor was there anything stated by him which would have induced any one to suppose that the Great Western did not hold themselves responsible? A.—No; the letter was given quite voluntarily.

Q.—When did you receive the first intimation that Messrs. Brydgos and Reynolds, or either of them, intimated on behalf of the company that they did not hold themselves responsible for this account? A.—The only intimation I had of this account being repudiated was by seeing letters pass between the head office and

Messrs. Brydges and Reynolds, after Mr. Brydges returned from England in the fall of 1859. But these gentlemen never denied their responsibility to me. Besides, Mr. Ross told me that they denied their liability. I never had any communication personally with Messrs. Brydges and Reynolds on the subject.

Q.—As the pass-book setting forth the drafts on the Bank was finally made up, what was the balance which was due to the Bank? A.—I think that at the time the Bank stopped the account, the advances amounted to about \$740,000—or something like that.

Hon. J. H. CAMMERON (producing a book).—This is the receipt-book for the vouchers, corresponding with the pass-book up to that time. The book contains the receipts for returned cheques issued by both companies up to 6th January, 1860. Does not this include all the vouchers on the Detroit and Milwaukee account? It includes all the amounts, I believe, that the Bank claimed from the Great Western, except \$200,000 on a separate account? A.—I read in the receipt-book—

"Rec'd vouchers to 6 Jan'y, 1860,

"For Great W. Railway Co. and D. & M. acc.

"MICHAEL JOY."

The learned JUDGE.—What is the balance in the pass-book?—A. It is \$742,270 92.

Hon. J. H. CAMMERON.—What is the meaning of the \$200,000 additional? A.—That \$200,000 was a separate transaction, which, if you please, I will explain.

Q.—Do so? A.—In the spring of 1859, the bank pressed Messrs. Brydges and Reynolds for exchange. The bank, you must understand, covers its account in London in the spring of the year. Exchange was promised by Messrs. Brydges and Reynolds from time to time to the end of 1858, and up to April or May in the following year. The railway people, however, gave us to understand that it was not convenient to draw upon them just then, and they asked the board to postpone the time for making the payments. But there was money wanted in the spring, and instead of giving money, they gave bonds of the Great Western Railway for \$200,000. There was an equal amount in notes of the Detroit and Milwaukee which Mr. Ross took with him down to New York.

Q.—The bonds were two in number, I believe, of \$100,000 each? A.—The whole amount, I know, was \$200,000. I do not know if there were two bonds of \$100,000 each; but I believe there were.

Q.—The amount of these bonds was first credited to them, then, and when they were given back it was re-charged? A.—I do not know. But I understand they were given back.

Q.—In whose handwriting is the memorandum you now produce? A.—Mr. Reynolds'. It was given in the spring of 1859 so as to induce the bank to continue the credit, without, however, requiring to draw exchange. As the D. and M. account ran up, the Great Western was to come down.

The learned JUDGE.—What is the date of that?—A. It was given in the spring of 1859.

The learned JUDGE.—Read it.

The WITNESS read it as follows:—

Present D. & M. Dr. Balance.....	\$288,000
Provision for Coupons in May, say.....	42,000
" " Bills " "	60,000

\$390,000

ASSETS AT 31st MAY

G. W. Balco. at credit 23rd April	\$35,000
Average weekly rec'ts, to 31st May	250,000
" " rec'd. D. & M.—5 weeks.....	60,000

\$345,000

LESS.

Wages, &c., G. W.	\$50,000
" " D. & M.	25,000
Wyandotte Bond.....	90,000

165,000

\$180,000

180,000

\$210,000

Hon. J. H. CAMERON—It gives the joint balances of assets, and the joint receipts, so as to bring the amounts of the two accounts within the two credits? A.—It was given with this intention, that while the one account ran down the other was to go up.

Q.—What is the amount of the credit on which both companies were to draw? A.—The authorized overdraft was \$250,000.

Q.—That is the sum fixing the extent of the joint credit of the Great Western and the Detroit and Milwaukee? A.—Yes; if the Great Western ran down to cypher, the Detroit and Milwaukee were permitted to draw to the extent of \$250,000, and vice versa.

Q.—Look at these papers and see by whom these thirds of exchange were given, for what purpose they were given, and to what credit they were carried? A.—These are Great Western Railway exchange.

Q.—On what account were they given, and to what account were they carried out in the books? A.—I cannot tell without seeing the books.

Hon. J. H. CAMERON (to the witness)—Turn to the books. You will find the entry under date of February 1st. (To the Court)—I purpose, after going into particulars, shewing the way in which the advances were made, if my learned friend disputes the correctness of the accounts, to refer the accounts to an accountant; so that we may be relieved from the necessity of going into details here, and be left free to go on and try the question. (To the witness)—I want to see whether these bills of exchange are given in the same way as the others.

Witness—I find this entry:—"Monday, 1st February, 'C. B. of Canada Dr. to G. W. Railway D. & M. acc. for their draft on the London Board G. W. R. a 90 'dyst £6,000 stig. @ 9 1/2 ct., \$20,066 66."

Hon. J. H. CAMERON—Just see if these bills (handing witness some bills) are drawn in the shape in which the firsts are drawn?

Witness (reading one of the bills)—

"HAMILTON, Canada West, 2nd February, 1858.

20 May, B. R. 2393.
"CANADA.

"No. 122.
"Exchange for £0,000 0 0 Stg., 2nd February, 1858, ninety days after sight of this Third of Exchange (First and Second of the same tenor and date unpaid) Pay to the Order of W. H. Park, Manager of the Commercial Bank of Canada, the sum of six thousand pounds sterling value received, which place to account of the Trustees D. & M. Co. with or without further advice.

"C. J. BRYDGES,
"Managing Director.

"THOS. REYNOLDS,
"Finance Director.

"To the London Board of Directors of
"the Great Western Railway of Canada Co.,
"Gresham House, Old Broad Street,
"London, England."

Hon. J. H. CAMERON—Look at the thirds of exchange of the various other bills, and say whether or not they are drawn in the same way?

Witness (examining them)—Yes; they are all Great Western Railway exchange. There is, however, a little difference in the wording.

Hon. J. H. CAMERON—That is immaterial. The drawers and the drawees are the same, I believe? A.—Yes; the drawers being Mr. Brydges and Mr. Reynolds, and the drawees the London Board of Directors of the Great Western Railway Company.

Q.—From whom did that statement come to you? A.—I read on the back of it a memorandum in my own handwriting as follows:—"Received from Messrs. Brydges and Reynolds, at Toronto, on 8th June, 1859."

It is a "memorandum of the liabilities and assets of the Great Western and Detroit and Milwaukee Railway Company's to 31st December, 1859." The total amount of the liabilities is set down at \$929,700; and the total assets at \$1,955,000.

Q.—For what did you receive that statement? A.—It was put in to shew what the financial condition of the roads would be on the 31st December, 1859, on both accounts.

Q.—What is the date of your receipt of it? A.—I received it on the day we met in Toronto, on the 8th June, 1859—after Mr. Ross' return from New York.

Q.—Just look at these statements, and see if they are not those made by you from the Hamilton office to the head office? A.—Yes, they are those. Mr. Eccles said they were made monthly, but in point of fact, they were made weekly.

Cross-examined by Mr. M. C. CAMERON—You say, Mr. Park, that the account of the Great Western Railway Company with the Commercial Bank was opened in August, 1857? A.—About that time.

Q.—Had the Great Western Railway Company any special form of cheque on which they chequed out their funds? A.—Of course they had. I can shew you the form if you like.

Q.—Had you no instructions from the Great Western Board as to the manner in which these cheques were to be signed? A.—I cannot tell at this moment. I have no doubt, however, that they were signed by Messrs. Brydges and Reynolds, as managing and financial directors.

Q.—And by whom else were they signed? A.—I do not know.

Q.—Were they not signed by the accountant and secretary? A.—I believe they were.

Q.—Were you not aware of minutes having been passed by the Great Western Board requiring these cheques to be signed in a certain way? Had you no notice, when one officer, who was authorised to sign them was temporarily absent, that a certain other officer was empowered to affix his signature in his stead? A.—I do recollect something of that kind.

Q.—Are the cheques of the Detroit and Milwaukee signed in the same way as the cheques of the Great Western? A.—No, they are not.

Q.—And why not? A.—The reason why they were not so signed, as I understood it, was to prevent confusion.

Q.—I understand that the Great Western Board required their cheques to be signed in a particular way. Now, unless these cheques of the Detroit and Milwaukee were signed in that manner, why did you accept them as cheques belonging to the Great Western? A.—I cannot tell you why it was. But we knew that the Detroit and Milwaukee account and the Great Western account were one and the same.

Q.—Did you know as a matter of fact, from any report made to you by Messrs. Brydges and Reynolds, what was the amount of money which the Detroit and Milwaukee Railway received from the Great Western? A.—Yes; Mr. Reynolds himself told me the amount, sometime in the year 1858.

Q.—Were you told in December, 1857, what was at that time the amount? A.—I have no distinct recollection. But it was supposed to be large.

Q.—Was it not \$600,000 or \$750,000? A.—I cannot say.

Q.—Will you say as a fact that the amount was mentioned by Mr. Reynolds? A.—I reply that I knew a large sum of money was required.

Q.—You say you knew that the Great Western were going to lend a large sum of money to the Detroit and Milwaukee? A.—So Mr. Reynolds told me.

Q.—When Mr. Reynolds went to you, did he not give you a statement of the amounts which the Detroit and Milwaukee would probably require during the year 1858, and of the manner in which it was proposed that these advances should be met? A.—I have no recollection of receiving such a statement.

Q.—Did you not receive it, and send it to Mr. Ross? A.—I may have done so, and have since forgotten it.

Q.—Why do you forget such an important circumstance as that when you pretend to remember little details of conversations? A.—I do not remember about the statement of which you speak, but I have good reason to recollect the conversations.

App's (189), page 117. Mr. Keen's read this in his address to the Jury: Mr. M. C. Cameron objecting; which the learned Judge noted.

Q.—You say you might have received such a statement? A.—I may have received it. I don't recollect it, though.

Q.—What would you have done with it supposing you had received it? A.—I should have sent it to Kingston.

Q.—Do you recollect a statement issued, showing that the Detroit and Milwaukee would require in the month of January \$45,300, of which \$15,000 were to be met by traffic receipts of the road, and \$30,000 by the receipts of the Great Western? A.—I do not recollect it.

Q.—Have the kindness to look at this letter (showing the witness a letter). I do not want you to read it through. But tell me whether it calls to your mind anything about such a statement? A.—No. I see, however, that there was a statement sent back to Mr. Reynolds, and a copy forwarded to Kingston.

Q.—Do you know what the statement was made for? A.—I have no recollection. I should presume, however, it would indicate that there was money wanted.

Q.—Would it indicate that money was to be paid, think you? A.—That would depend upon the nature of the memorandum.

Q.—Tell me, if you please, what was the exact agreement entered into between Mr. Reynolds and Mr. Ross, as to what you were to do as representing the Commercial Bank, and what Mr. Reynolds was to do as representing the Great Western Railway? A.—The Bank was asked to allow of overdrafts from time to time until the round amount had accumulated.

Q.—Do you mean to say that the first request was to allow of overdrafts until a round amount had been drawn out? Is it in this slovenly way you do your business? Do you allow your customers to draw over and above their deposits from time to time to any amount? A.—It is probable that the amount was stated, but I do not recollect. I can only tell from the books and papers what was the amount which would be required.

Q.—That, you say, is the only way in which you can tell? A.—Yes; that is the only way I can tell. I cannot, of course, recollect figures and statements.

Q.—Do you recollect this statement (showing a statement to the witness)? A.—I do not.

Q.—If that statement was before you and you examined it, but cannot now tell what took place in regard to it, may not your recollection be equally faulty as to the conversation which you say was held? A.—No; I recollect the conversation quite well.

Q.—But how is it that you do not recollect this important circumstance? A.—Allow me to say that a statement of that kind is a matter which should speak for itself. I cannot pretend to bear in mind all the transactions of the Commercial Bank.

Q.—You say that the arrangements were not based upon any particular document? A.—No; the arrangements were not based upon any particular document.

Q.—And you say the arrangement was to lend just as little or as much as the parties pleased? A.—It was pretty much in this way—they were to make demands on the Bank, but not exceeding \$200,000 credit.

Q.—But this was for the Great Western Railway was it not? A.—They were to be allowed to use it on either road.

Q.—I suppose your Bank were anxious to get this account? A.—Yes; it was a good account, and we were anxious to get it.

Q.—And there was no further arrangement, then—no communications on the part of your Bank with the Board of Directors of the Great Western Railway in reference to the matter? A.—Nothing in reference to the basis on which the account is founded.

Q.—When the Great Western opened this account with the Commercial Bank, was there not a minute of the Bank on the subject communicated to you? A.—I do not recollect, but I will not swear there was not.

Q.—With whom had you the correspondence on the subject? A.—My impression is, that Mr. Ross, the cashier, came to Toronto to arrange for the transfer from the Bank of Upper Canada to the Commercial Bank. The substance of the arrangement was, of course, put in writing afterwards. There was a great deal of correspondence about it.

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Q.—I presume you never looked upon the Detroit and Milwaukee as an individuality, that is, as having a separate existence from the Great Western? A.—I know from hearsay that there was a D. and M. Company.

Q.—Then you must also have known that they had a distinct set of officers, except that some of them were also officers of the Great Western? A.—I believe they were not officers of the Detroit and Milwaukee when the account was opened.

Q.—When did they become officers of that Company? A.—I understand that it was a short time afterwards.

Q.—Did you ever address these gentlemen as officers of the Detroit and Milwaukee? A.—Yes, I believe they were occasionally addressed in that way.

Q.—How came you to address them as such? A.—So far as I recollect, in the early part of the account some of the letters went from the office addressed to the Great Western, and I think Mr. Reynolds desired it to be changed as it led to confusion.

Q.—Have you any letters so addressed to them? A.—I have not.

Q.—And is not all this a piece of imagination on your part? A.—It is not.

Q.—How soon did you commence that correspondence? A.—I presume it commenced immediately.

Q.—And I suppose that during the whole time you never considered the Detroit and Milwaukee in any manner liable to the Commercial Bank? A.—The thought never passed into my mind that there was anybody liable but the Great Western. I never considered any one liable but the Great Western.

Q.—Did you ever take notes of the Detroit and Milwaukee? A.—Yes; we discounted notes of that railway company.

Q.—And why did you think the Great Western were liable for these notes? A.—The notes were brought to me by Mr. Brydges or Mr. Reynolds. Mr. Ross wrote to me, I think it was in 1858, to get the authority of the Great Western for them. That is to say, that the Great Western should make itself responsible for these notes, as well as for the general account.

Q.—Did you get that authority? A.—No. I was going on to tell you what took place. I made a request to Mr. Brydges or Mr. Reynolds.

Q.—Did you do it in writing? A.—No; I do not think I did.

Q.—I should have thought you might have done so, considering that you were rather fond of correspondence? A.—Ah I know it, that I made the request, and that I took down their answer in writing. That was some time in 1858. I have seen that answer so as to refresh my memory.

Q.—Have you that memorandum now? A.—I have not.

Q.—Where did you leave it? A.—It is with my papers in Montreal.

Q.—And what was your object in now consulting a memorandum made three years ago? A.—I supposed I should be asked all sorts of questions.

Q.—Then why did you not bring the document itself with you? A.—I have a memorandum at my lodgings here, but not the memorandum made at the time the request was preferred.

Q.—Why did you prefer bringing a copy to the original? A.—There was a great mass of papers connected with the original, and I could not bring it. It was embodied in a private letter to the head office. The private letter book I have still in my possession. I have continued to keep it with a view to this trial.

Q.—When did you leave the Bank? A.—In August, 1861.

Q.—Was there anything said about this suit at that time? A.—I think there was.

Q.—The suit was only commenced within a couple of months back. Then you mean to say, that when you left the Bank you took away its books? A.—I took away the book containing my private correspondence with Mr. Ross, to which the bank had no right.

Q.—Public correspondence between you and Mr. Ross has been produced, but you say that you embodied this memorandum in your private correspondence. Now how is it that you did not put that also in your public correspondence? A.—I have only to regret that I did not do so.

Q.—Did you not address a majority of the letters you sent to Mr. Reynolds as the Vice-President of the Detroit and Milwaukee Railway Company? A.—Yes, I presume that a majority of them were so addressed?

Q.—Now, how did you come to address him in that character, if, as you say, you were dealing with him as the financial director of the Great Western? A.—The sole object of using the D. and M., both on the cheques and the letters, was to enable them to preserve the distinction at their offices, to see which was which.

Q.—Then you always understood that the two concerns were, in a great measure, distinct? A.—So far as our account was concerned, we held the Great Western liable.

Q.—And in other respects they were distinct? A.—I understood that they wished to be so regarded.

Q.—Now, your correspondence with Mr. Reynolds was, I suppose, in reference to this account? A.—I presume it was.

Q.—You say that you distrusted the Detroit and Milwaukee Railway Company—that you thought it a bankrupt concern? Let me ask you, did you deal with their securities yourself personally? A.—No; I never owned a dollar of such securities. I hope the short-hand writer will take this down.

Q.—Did you deal in them for your friends? A.—I did for my friends.

Q.—Do you not know that the officers of the Commercial Bank dealt in those things? A.—I will not answer such a question.

Mr. BOYLES.—That's right. Don't answer the question.

Witness.—That is a matter relating entirely to their private affairs.

Mr. M. C. CAMERON.—But if it was the insolvent company you represent it to have been, why did you deal with its securities?

Mr. BOYLES.—We don't wish the two kinds of transactions to be mixed up.

Mr. M. C. CAMERON (to the witness).—Did not the Commercial Bank deal in those securities? A.—No.

Q.—And you swear to that? A.—Yes; I am certain they did not; but they acquired some collateral securities under a deed.

Q.—When was that? A.—It was in 1858 or 1859.

Q.—Were they acquired through you? A.—Yes; through me.

Q.—To a large amount? A.—I forget the exact amount.

The learned JUDGE.—Was it for any part of this debt? A.—No, my lord. I think it was for one of our customers.

Mr. M. C. CAMERON.—You say that something took place in the fall of 1858 in consequence of a gentleman coming to see you and making a reference to Messrs. Brydges' and Reynolds' personal standing? A.—Yes.

Q.—Now, what had Messrs. Brydges' and Reynolds' personal standing to do with this matter? A.—Their character as gentlemen, I suppose, had a good deal to do with it.

Q.—Then the enquiry was made of you in reference to the personal standing and private means of those gentlemen? A.—Yes, and as to how far they would be likely to be supported by the home board in the project in which they were engaged. And they gave me some information which induced me to write to Mr. Ross, with a view of getting a note in writing over their signatures in regard to the liability of the Great Western Railway Company.

Q.—And did you previously consider them liable, as the representatives of the Detroit and Milwaukee? A.—No; you misunderstand me. The gentleman from Buffalo asked me whether Messrs. Brydges and Reynolds were good for, I think, the sum of \$250,000. He said they were going to build two steamers at Buffalo, and he was the Vice-President of a Bank from which they desired to draw \$300,000. He therefore desired some information in regard to them. I spoke highly of their respectability, but I said I did not know what their private means were. He then made a number of enquiries as to whether in building these steamers they were supported by the home board—enquiries which I was unable to satisfy. I considered it my duty at once to tell Mr. Ross privately that Messrs. Brydges and Reynolds were issuing this large amount of paper, and I think I said that it might affect their standing at home. I thought it possible that their course in this respect might lead to Messrs. Brydges and Reynolds losing or injuring their position at home, and I felt it to be my duty to tell the Bank what I knew, so that no trouble might occur thereafter.

Q.—You are aware, I suppose, that the monies paid to them on this account (the Detroit and Milwaukee) were monies which went to that railway company? A.—I had every reason to believe so.

Q.—And I suppose you are aware, also, that the Commercial Bank paid coupons on the bonds of the Detroit and Milwaukee Railway? A.—Yes.

Q.—You have said that these steamboats exercised you very considerably at this time; now, I believe, that the Commercial Bank discounted the paper issued on account of these boats? A.—Yes.

Q.—And how much of the paper of these private individuals did the Commercial Bank take? A.—My impression is that it was about \$80,000.

Q.—How did they sign this paper—just in the same manner as they signed the other cheques? A.—They attached their individual signatures. They kept an account called "Steamboat Account." They issued cheques like the others, but only headed "Steamboat Account."

Q.—And that was, unquestionably, the personal account of Messrs. Brydges and Reynolds? A.—Undoubtedly.

Q.—With the exception of the words "Steamboat Account," the cheques were the same? A.—Yes, I think so, with the further exception that there was an official designation to the D. & M. cheques.

Q.—Here are the cheques (producing some cheques) and there is no official designation that I can see? A.—Yes; the steamboat cheques were like these.

Q.—Was there any change in your mode of doing business with the Detroit and Milwaukee Company about the time that this letter was written? A.—I am not aware that anything definite was done. There was no intentional change I am very sure.

Q.—Did they do more business then? A.—Yes; the account increased rapidly.

Q.—Do you recollect the opening of an agency of your bank at Windsor? A.—Yes. I think it was in the year 1858. But I am not sure on this point.

Q.—Was it not after the date of the letter of the 16th December, 1858? A.—I cannot exactly recollect. My present impression is, that it was about the beginning of 1859.

Q.—Was there no change that took place in consequence of that? A.—There was an account kept at the Windsor branch.

Q.—Was there not a traffic account kept there? A.—I believe there was.

Q.—And were there not payments made there on traffic receipts? A.—I believe so. But I knew it only by hearsay.

Q.—But you brought them in at Hamilton, did you not? A.—No, I did not bring them in. These gentlemen made an arrangement with the branch at Windsor, bearing upon the accumulation of traffic there. The Great Western also had some arrangement with them. After a time memoranda were issued of the credits made, and these were given in at Hamilton.

Q.—Then you knew as a fact that the deposits carried into the Windsor office were credited at the office in Hamilton? A.—Yes.

Q.—And how did you make that Great Western money? A.—I did not make it Great Western money.

Q.—But you carried it into the account as Detroit and Milwaukee money? A.—Yes. They told us to do so. The only account we had was the D. and M. account, which I have already explained.

Q.—As I understand the operations at Windsor, whenever the traffic receipts there exceeded the expenditure on account of the road, the balance would be carried from time to time to the credit of the account at the office at Hamilton. A.—Mr. Reynolds or Mr. Brydges gave me the instructions.

Q.—I suppose you never applied to any of the other officers of the Detroit and Milwaukee Company about the matter? A.—I considered I had nothing to do with any of the other officers.

Q.—If you had made such an application I presume you would have recollected it? A.—It is just the same in principle—

Q.—Never mind the principle, answer my question. A.—I do not, I cannot pretend to recollect letters. Anything that appears in writing there is no necessity for my recollecting.

Q.—Did you write to any other officer of the Detroit and Milwaukee? A.—I do not recollect.

App'x
(175, 176),
page 109.

Q.—But you might have done so? A.—Yes; I might have done so.

Q.—And if you wrote to them, might you not also have dealt with them? A.—Never.

Q.—We will try and find you the letter, and see how it reads. I suppose you know Mr. Trowbridge, the Secretary of the Detroit and Milwaukee, in 1859? A.—Yes.

Q.—And I suppose that when you went with him through all this ostentatious talking about traffic receipts and accounts you meant nothing after all? A.—It was just to keep the thing separate.

Q.—You will see that this letter (handing a letter to the witness) was written before the letter of the 16th December, 1858?

The learned JUDGE.—What is the date of that letter? A.—November 4th, 1858.

Mr. M. C. CAMERON.—What is the subject on which that letter was written? A.—It has reference to the traffic account.

Q.—Did you carry this to the account of the Great Western? A.—No, I did not.

Q.—Then you say on your oath that this does not relate to anything which came into the account forming the subject of this action? A.—I say that it relates to the traffic account.

Q.—Had it any reference to anything in respect to this claim? A.—I do not think it had any reference to the overdrawing account. It was distinctly understood that there should be no overdrafts at Windsor.

Q.—We had no overdrafts at Windsor. Now, was not this account (handing witness an account) what was there referred to? A.—Yes, that was what was referred to.

Q.—And what does it mean? A.—That the traffic account should be kept at Windsor.

Q.—Supposing \$100,000 to be received in a month, and only \$50,000 paid out, what would become of the remainder? A.—I know nothing about the accounts at Windsor.

Q.—How could you, then, swear to the correctness of the account at Windsor, if you do not know anything about it? I ask you what became of these moneys? A.—A great part of them were paid out for wages, I suppose. I tell you again that I do not know anything about it. You are now asking me as to the correctness of the account of the Great Western there.

Q.—I ask you if you knew that the balance of receipts in excess of expenditure came into the Bank at Hamilton? A.—I only know that money came down sometimes to Hamilton.

Q.—If you look at this document (handing witness a paper) perhaps it will refresh your memory as to how you really did deal in these matters? A.—This was written by one of the officers of the Great Western, and was handed in at Hamilton. It is a receipt for money.

Q.—But it did not come from the Hamilton office? A.—My impression is that it was handed in by the Great Western.

Q.—Who wrote it? Was it not Mr. Pitman? A.—Yes; but I am certain it came from the Great Western Railway Company.

Q.—Just look at this letter (handing witness a letter) and see if that is not from an officer of your bank? A.—It is.

Q.—To whom is it addressed? A.—To Thomas Reynolds, Esq., Vice-President of the Detroit and Milwaukee. It says:—"Enclosed I beg to hand you for signature and return blank certificate of balance due to this Bank by your Company."

Q.—And do you call that the Great Western Railway Company? A.—Irrespective of that, the overdraft was Great Western, as I understood it.

Q.—But the letter was addressed to Mr. Reynolds as Vice-President of the Detroit and Milwaukee Company, and had reference to their account? A.—Yes. The letter was not, however, signed by me, but by another officer of the Bank.

Q.—Have you ever received on account of the Bank any promissory notes drawn by the Detroit and Milwaukee Railway Company? A.—I have no recollection of having received any.

Q.—Do you recollect your Bank discounting with the Bank of Commerce, in New York, any paper for the Detroit and Milwaukee? A.—I recollect Mr. Ross doing it for some friends.

Q.—Was it on account of the Bank? A.—No. He was acting individually.

App'x
(85),
page 58.

App'x
(170),
page 107.

App'x
(170),
page 107.

App'x
(185)
page 88.

Q.—Then he did not deal on the part of the Bank? A.—No.

Q.—But was it part of the duty of the Commercial Bank to protect that paper? A.—No, it was not. It was taken on terms which are explained in the correspondence on the subject.

Q.—Then you do recollect the circumstance of these notes being got? A.—Yes.

Q.—And do you remember any application being made to the Great Western Company for its bonds as collateral security? A.—Yes.

Q.—But why did the Bank take the bonds of the Great Western as collateral security for this paper which you say was in the hands of private individuals? A.—Mr. Ross thought that the loan could not be raised in New York without such collateral security.

Q.—Why take the notes of the Detroit and Milwaukee for a debt due by the Great Western? A.—They were not taken for a debt due by the Great Western.

Q.—If these notes were paid, to whose credit would they go? A.—If they were paid, there would be an end to them.

Q.—Would they would go to somebody's credit? A.—I suppose to the parties' credit in New York.

Q.—Do you see you are aware of the fact that the Commercial Bank has changed its position materially in regard to these accompanying these notes? A.—Yes.

Q.—Their first arrangement was to take the notes and return the bonds? A.—Yes; when the notes were paid.

Q.—And they afterwards maintained that they were not to return the bonds? A.—Not until the notes were paid.

Mr. M. C. CAMERON (to the counsel for the plaintiffs)—I would like to have the letter from Mr. Reynolds to Mr. Park of the 28th May, 1859.

Hon. J. H. CAMERON.—Here it is. You shall have it.

Mr. M. C. CAMERON (to the witness)—Just look at this letter, and see if it is a letter you received from Mr. Reynolds? A.—It is. I have seen the letter before.

Mr. M. C. CAMERON.—Read it, please.

WITNESS read the letter.

Mr. M. C. CAMERON.—I believe you thought at that time that Mr. Reynolds had overdone himself? At least I have a little note from you to that effect. Now, did you get this telegram from Mr. Ross and send it to Mr. Brydges? A.—They wanted the letter about these bonds to be given up.

Q.—And this was a telegram in answer to their application? A.—Yes; this was the telegram.

Q.—They did not want to let the bonds go, I believe, before they received this letter? A.—No.

Q.—Here is a little note from you to Mr. Reynolds, and you say in it that Mr. Reynolds has been equal to himself? A.—Yes; this is my letter to Mr. Reynolds. It is as follows:—

Q.—I believe notwithstanding this the Commercial Bank claimed to hold the bonds? A.—Yes, sir.

Q.—These \$200,000 of notes have been charged against the Great Western Railway, have they not? A.—Yes.

Q.—The plaintiffs bring into their account the other notes mentioned in this letter of Mr. Reynolds', and make them part of the charge? A.—So I understand.

The learned JUDGE.—What is that?

Mr. M. C. CAMERON.—The witness states, my Lord, that the notes mentioned in this letter of Mr. Reynolds, of the Detroit and Milwaukee Railway Company, form part of the claim against the Great Western in the account now sued on.

Mr. M. C. CAMERON (to witness)—Are you aware of the Commercial Bank having paid coupons for the Detroit and Milwaukee Railway Company in the month of November, 1859? A.—Yes.

Q.—And that was after Mr. Reynolds had announced his inability to provide means to meet the advances? A.—Yes. He had no instructions from England.

Q.—Why did the Bank pay these coupons? A.—They were paid at Mr. Reynolds' request. There is a letter on the subject amongst the correspondence.

Q.—Did the Bank not do it because they considered it necessary to keep up the credit of the Detroit and Milwaukee Company? A.—I dare say they did.

Q.—Why was the Bank anxious to keep up the credit of the Detroit and Milwaukee Railway? A.—I cannot tell, except that the keeping up of its credit involved the general interest. Whatever affected Mr. Brydges and Mr. Reynolds to some extent affected the Bank.

Q.—But it would be still more to the Bank's interest to keep up the credit of the Detroit and Milwaukee if the Detroit and Milwaukee was their debtor? A.—Of course.

Q.—You never considered the Great Western Railway Company as an insolvent concern? A.—No. I may add that these coupons, of which you have been speaking, were a separate transaction, and did not come into this account at all.

Q.—Do you mean to say that they did not come into this account? A.—I am sure that these coupons never came into the account. They formed what was really a separate transaction.

Q.—I believe the Bank paid to the Merchants' Bank, New York, the sum of \$30,000 or \$40,000 liabilities of the Detroit and Milwaukee Railway Company? A.—I have never heard so.

Q.—Then you are not posted up in all matters? A.—It would appear not; if there has been such a transaction as that.

Q.—I observe in your ledger that the writing, "Great Western Railway," is smaller than "The Detroit and Milwaukee Railway Company." Can you tell me if the two kinds of writing were entered at the same time? A.—I will explain the transaction.

Q.—I ask you to answer my question. Was all this written at the same time or not? A.—Some of the headings of accounts in the ledger were completed about two years ago. Being previously incomplete they were then completed.

Q.—How did you find out that they were incomplete? A.—Mr. Campbell asked from Kingston for a detailed statement of the account, and the clerks drew my attention to the fact that some of the headings were not properly brought forward. You will find it all right in this ledger, and it was through mistake, on the part of one of the clerks that the entry was not properly made in the other ledger.

Q.—You say that the entries are all right in one ledger? A.—I think so.

Q.—Now to turn to that ledger and see how it is headed?

WITNESS (turning to the ledger).—What do you want to know?
Mr. M. C. CAMERON.—You say that that portion of the heading relating to the Great Western is smaller than that having reference to the Detroit and Milwaukee. Now, I want to know if the two names were written at the same time? A.—Yes; I know they were in this old ledger.

Q.—Then its smallness makes no difference? A.—There is no difference in the hand writing or in the ink. That is, in the first ledger.

Q.—But does it not appear that one part of the writing is lighter than the other? A.—I think not. I am confident about this, and the other clerks will prove the same thing—that all this was written at the same time.

Q.—How was it that in giving the pass-book you did not make any reference to the Great Western Railway? A.—I do not know. That was given by one of the clerks. But the first pass-book, I am satisfied, was correctly opened.

Mr. EGGLE.—That is the pass-book which they will not produce?

WITNESS.—Yes.

Mr. M. C. CAMERON.—How long did it last? A.—No very great while. It is generally the custom to give a pass-book at the time of the first transaction.

Mr. M. C. CAMERON.—I want to know what was the heading of the first book relating to these transactions? The learned JUDGE.—There was but one book beginning the account, and that is not here.

Hon. J. H. CAMERON.—I understand that that book was headed in the same manner as the first ledger.
Mr. M. C. CAMERON (to witness).—Did you not receive the book back for the purpose of having it changed? A.—I am aware that it was handed into the Bank; but I am equally certain that it was not kept

there. I have directed an examination to be made at the office, and the book is not to be found. It was a smaller book than this.

Q.—For what purpose did you see it? A.—I do not know; but I have it strongly fixed in my recollection that I saw it.

Q.—When was it handed in at the Bank? A.—It was just at the opening of the account.

Q.—Are you not now confounding the pass-book relating to the steamboat account with the other pass-book? A.—No; the steamboat pass-book and that book are altogether different.

Q.—Would this second pass-book have been commenced from the other book, or would the heading have been taken from the ledger? A.—My impression is, from seeing this book, that the clerk would take the other and copy from the beginning.

Q.—I ask you whether this heading is copied from the first pass-book of which you speak, or from the App's ledger? A.—I cannot tell you. The clerk did it. It is in Mr. Sorley's handwriting. It is headed by Mr. (508) Sorley, and the entry of cheques is in Mr. Orswell's handwriting. Page 131.

Q.—You say that there was a distinct pass-book kept for the Great Western Railway transactions? A.—Yes.

Q.—Will you look at these cheques (handing witness a number of cheques) and see if they are cheques App's of the Great Western, and if that is the way in which the Great Western cheques were drawn? A.—Yes; (1880-1885) that is the way in which the Great Western cheques were generally drawn. page 113 to 116.

Q.—And you would have no hesitation in saying, I should hope, that the other cheques produced here to-day, with Messrs. Brydges and Reynolds' signatures attached as officers of the Detroit and Milwaukee Railway, were not the Great Western Railway cheques? A.—What I would say is that they were not in the Great Western No. 1 account.

Q.—How is it that you afterwards accepted the Detroit and Milwaukee cheques? How is it that you allowed the change to be made? A.—There was no change made.

Q.—But how was it that there were distinct cheques drawn? A.—On the same principle that ran through the whole transaction. There were to be distinct documents of every kind, so as to prevent confusion in the accounts.

Q.—The one kind of cheque appears to be that of the Great Western Railway Company—the other that of the Detroit and Milwaukee Company? A.—Yes.

Q.—Now, first about the time that these new cheques were first used, I believe it is a fact that a change had been made in relation to the traffic account of the Detroit and Milwaukee? A.—Yes; there was an office opened in connection with the Bank at Windsor, where deposits were made and duly entered.

Q.—It was about this time, also, that you asked for the letter of guarantee? A.—It was not a letter of guarantee, but a letter of acknowledgment.

Q.—But you call it a letter of guarantee? A.—It was called a letter of guarantee for a time, it is true.

Q.—And you found it to be a matter of some consequence to make the change? Do you recollect striking a balance of this account in December, 1858? That was the only time, I believe, that you brought down the balances—that you made a rest and began anew? A.—It was done by the book-keeper. I did not do it.

Q.—Do you not recollect that you went on afterwards charging the lump sum represented by the balance against the Detroit and Milwaukee Company? A.—The accounts were closed to enable us to charge the interest.

Q.—Do you not find a balance brought down?—a balance of \$262,000 on the 1st December? (To the learned Judge)—This, your lordship will find charged in the particulars, 1st December, \$262,000.

The learned Judge—Yes, I see it is so charged. On the 1st December they struck a balance, and afterwards carried on the \$262,000 against the Company.

Mr. M. C. CAMERON (to witness)—Was it you who charged this balance of \$262,000 to the Detroit and Milwaukee Company?

WITNESS—On the 1st December, 1858? I can find no such balance struck in this book.

Mr. M. C. CAMERON—But in this ledger you have made an alteration? A.—No; there is no alteration.

Q.—I mean to say that that book is not the same as it was when the entry was first made. Was not the name of the Great Western Company inserted here after the account was first entered? A.—Yes; it was put in by the clerks, for the purpose of completing the heading, about two years ago.

Q.—That was after this difficulty had arisen between the Bank and the Company? A.—Yes; I think it was after that difficulty had arisen.

Q.—And after the difficulty occurred you altered your ledger? A.—I did not alter it. My attention was drawn to the omission when Mr. Campbell applied for the detailed account. I then saw that the account had been incorrectly brought forward. The error was just as though, if we were keeping an account with you, we left out the middle of your name, and inserted it on finding out our mistake. I cannot be responsible for the errors of book-keepers.

Q.—Every item in the account you have produced here, on which these cheques were given, is a matter relating to the Detroit and Milwaukee Company proper, is it not? A.—I fancy so. I have no doubt that the money was disbursed on account of the Detroit and Milwaukee Road.

Q.—Are you aware that a second loan was made to the Detroit and Milwaukee Railway Company by the Great Western in 1858? A.—There were two loans—one of £150,000 sterling; the other of £100,000 sterling. I do not know when the first was made, but I think the second was made in the fall of 1858.

Q.—At the time that the acknowledgment, of which you have spoken, was given, what was the state of the account of the Detroit and Milwaukee? There were \$358,000, were there not, due in December? A.—Yes; \$358,000 due on the 15th December.

Q.—And at that time was nothing said about the £100,000 sterling coming from the Great Western? A.—It formed the subject of conversation, as being one of the votes they expected to get.

Q.—But in December they had got it. And was that the amount of money you expected to receive? A.—Mr. Reynolds told me that the expenditure in full as arranged by his colleagues was £500,000 sterling.

Q.—You knew very well that it required the vote of the shareholders to authorize a loan? A.—I so understood it.

Q.—What amount of money did you agree to advance them when you spoke about this letter of acknowledgment? A.—It was just as it previously stood. There was no amount specified. But for whatever we did advance they were to give us exchange monthly. They were to get just what we pleased to give them. But they always took care to ask for more than they got.

Q.—As a matter of fact, the Great Western Railway Company have paid into your Bank, on account of the Detroit and Milwaukee Railway, more than \$358,000? A.—I do not know; my impression is, that it is only £10,000 sterling.

Q.—I find that up to 30th September the Great Western Company had paid to your Bank, according to your own crediting, \$858,957; or at all events you had received that sum of money. And you will turn to 27th December, 1859, you will find that up to that time you received \$1,185,486? A.—On the 27th December, 1859, I find a balance due.

Hon. J. H. CAMERON—They were all renewals. The whole sum we got up to that time in the way of exchange was but \$457,000.

Mr. IRVING—But were not \$200,000 paid after that?

Witness—I do not understand it so.

Mr. M. C. CAMERON—Mr. Park, during the time you were Manager of the Commercial Bank at Hamilton, were there any balances there between the Detroit and Milwaukee Company proper and the Bank? A.—As far as the Hamilton office was concerned there were no transactions except as to the account now in dispute and the promissory notes.

Q.—Were the promissory notes different from the other accounts? A.—They were discounted on their own basis. I think that all the notes discounted had individual names on the back.

Q.—You say that all the transactions in reference to this account were transactions which your Bank considered they had with the Great Western, except as to the discounting of promissory notes for individuals? A.—Such is my impression.

Q.—There was never any isolated transaction to take it out of that category? A.—Nothing, except it may be a loan in New York which was for the Company.

Q.—You have stated that Messrs. Brydges and Reynolds withheld the promised exchange. Why, then, did you continue to make the advances? A.—They said that of itself the traffic from the two lines would suffice to extinguish the account.

Q.—I desire now to question you in regard to an isolated transaction. You say that Messrs. Brydges and Reynolds, when they found that they could not give you exchange, did something else. What did they do?

A.—They gave bonds of the Great Western Railway as collateral to an equal amount of notes of the Detroit and Milwaukee Railway. Mr. Ross went to raise the money on them in New York, and invested it in sterling exchange, which went to the credit of the Detroit and Milwaukee account.

Q.—If this was an isolated transaction, why did you not open a special account? A.—The funds were to be raised in this manner so as to reduce the balance of the railway account.

Q.—But you say that this transaction was different from the others? A.—Only in so far as Mr. Ross raised that amount in the particular manner stated. The Bank afterwards took these notes up.

Q.—How did the Bank take them up? A.—I do not know the precise manner. But the bonds of the Great Western were the security on which they were based.

Q.—You say that the bonds were given to Mr. Ross as an individual, and that the Bank never had them? A.—They afterwards reverted to the Bank. The Bank took them up, and bought the loan.

Q.—In what manner was that done? A.—Mr. Ross can tell you. There is nothing to conceal about it.

Q.—You are very ready in saying there is nothing concealed. You should have waited until we charged you with concealment. Perhaps we may do so before we get through. When was it that this special transaction took place? A.—It was in the Spring—I think, in May or June. Yes; it was in June, 1859.

Q.—It was on the 18th June, 1859, that the entry of \$196,476 was made. Now, look at this letter of the 23rd July, 1859, and say in what character it was that you then wrote to Mr. Reynolds—whether you wrote to him as the finance director of the Great Western, or as the Vice-President of the Detroit and Milwaukee Railway. Is that your hand-writing? A.—It is.

Mr. M. C. CAMERON—I will read the letter:

Mr. M. C. CAMERON (to witness)—How came you to address a letter to Mr. Reynolds in that way? A.—He applied to have a note renewed—a D. & M. note.

Q.—He applies to you to protect certain bills which were about to mature in New York. Now, look at this letter (showing witness a letter) and say whether these bills are not the bills of the Detroit and Milwaukee Company? A.—Yes, they are; but Great Western bonds are attached to them.

Q.—Then you were going to protect the bills of the Detroit and Milwaukee Company? A.—Yes.

Q.—And you were writing to Mr. Reynolds as Vice-President of the Detroit and Milwaukee Company, were you not? A.—Yes.

Q.—It was the Bank, it will be observed, and not Mr. Reynolds, who at that time asked for the renewal of these \$50,000 notes. (To witness)—You see that at that time the proposition came from you? A.—I wished to have the information to send to Kingston.

Q.—And I suppose that this clearly was a Detroit and Milwaukee Railway Company's transaction? A.—Yes; I understood that the negotiation was for the Company at that time.

Q.—Just look at this letter (producing another letter) and say whether that is not another letter written by you to Mr. Reynolds as Vice-President of the Detroit and Milwaukee Railway? A.—Yes. It is dated 21st October, and it speaks of exchange.

Mr. M. C. CAMERON read the letter.

Mr. M. C. CAMERON (to witness)—Do you recollect getting on any other occasion a bond of the Great Western Railway Company for \$100,000, on account of the Detroit and Milwaukee Railway Company, in lieu of exchange? A.—Mr. Irving showed me just now one that we had as collateral security for a discount.

Mr. M. C. CAMERON—Did you not get one absolutely?

Mr. IRVING—In February, 1859?

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WITNESS—I find here a discount on the 19th February, the proceeds being \$100,000.
 Mr. M. C. CAMERON—Do you recollect getting at the same time two notes of the Detroit and Milwaukee Railway Company, with a bond of the Great Western as collateral security? A—I think I do.
 Q.—And they were retired by the Great Western Railway Company? A—Yes; they appear to have been paid by Mr. Stephens.

App'x
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Q.—Now look at this letter (handing witness a letter), which will show you the real nature of the transaction. There was no special arrangement about that I suppose? This had nothing to do with the Bank of Commerce, I presume? A—I think not, sir.

Q.—Then, how came you to take the Detroit and Milwaukee's notes at that time? A—No doubt I was authorized to do so by the head office.

Q.—And this is not an isolated transaction, shewing that you were looking upon the Detroit and Milwaukee Company as your debtors? A—I cannot admit that. Whatever was advanced in that way was so advanced by order of the Great Western Railway.

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Mr. M. C. CAMERON read the letter.

Mr. M. C. CAMERON—And when after that we tell you that it was to the Detroit and Milwaukee Railway you gave the credit, do you still say that it was to the Great Western Railway? A—Just so.

Q.—Why do you then ask for two notes of the Detroit and Milwaukee Railway Company, were banking reasons for it.

Q.—I want to know how it was that you asked for the notes of the Detroit and Milwaukee Company, when you claimed this as being a Great Western debt? A—I suppose the notes were used by them. We held bonds as collateral security for these notes.

Q.—Everything shews that your account has been with the Detroit and Milwaukee Railway. If not, why did you apply for these notes? A—We had a banking reason for it. It was that we might the more readily and profitably effect the negotiation.

Q.—You are here asking for two notes with the bonds. To the credit of which company would you place these notes? A—To the credit of the D. and M. Company.

Q.—But you say you have no credit with that Company? A—Yes, we have a D. & M. account.

Q.—That is what you call the Great Western account, but what we call the Detroit and Milwaukee account. Yours is a very nice way of making people liable. I have no doubt it will be said that there is a great deal behind these letters in the way of negotiation different from what has been stated. Here is another letter of yours, I believe? A—Yes. It is dated 28th March, 1859. In that letter there is a settlement spoken of. I dare say you understand what that means. A—It refers to the exchange we were to have had to settle the account.

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Q.—Yes. You were to have had exchange from the Detroit and Milwaukee Company, to whom the money was lent, but through the Great Western. Just look at this letter of the 3rd October, 1859, and you will see that you therein also address Mr. Reynolds as Vice-President of the Detroit and Milwaukee Railway? A—This letter is mine; but it refers to a separate matter altogether.

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Q.—This is a claim of Mr. Campbell for \$200,000. Was this a matter of the Bank, or was it a personal matter? A—I think it is a personal matter. I was not acting for the Bank; if I had been, I would have signed the letter as manager. (Examining more closely a letter of the 28th October, 1859, witness added:) This is entirely a private communication. There are no official signatures to it.

Mr. M. C. CAMERON—We will see whether it is or not—just for the fun of the thing.
 Mr. ECKLES—I object. It is a private letter, with which the Bank has nothing whatever to do.
 The learned JUDGE—We had better see what it is.

Mr. M. C. CAMERON then read the letter, 28th Oct., 1859.

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WITNESS—This is entirely a private letter, and has nothing to do with this matter at all.
 Mr. M. C. CAMERON—There are two or three to be judges of that fact. I want to know who held this \$100,000? A—I might guess at it, but I could not tell of my own knowledge.

Q.—Did the Bank hold these securities? A.—I do not think the Bank did; but it might have held some of them as collateral security.

Q.—How many did the Bank hold? A.—Whatever the Bank held, Mr. Ross or Mr. Campbell can tell better than I. I do not know what was held. But whatever was held, was lodged in the Bank as collateral. I have no idea of the amount.

Q.—Was it fifty thousand? A.—I don't think it was as much,—some thirty thousand, I think. The securities thus held belonged to private individuals.

Q.—What did you mean by its being a convenient time to buy them up? A.—The suggestion was that the Company should buy them in, and it was reported that they could be bought up at a discount.

Q.—Who were to have arranged it—the Great Western Railway? A.—I do not think they had anything to do with it.

Q.—You recollect certain notes being made by the Detroit and Milwaukee Company, which notes the Commercial Bank retired; and which were lost, and your giving a guarantee to the Detroit and Milwaukee for them, in August, 1859? A.—We were the custodians of the notes at that time. That was all that was asked of us. App'n (15b) page 33

Q.—And you assert that the Detroit and Milwaukee was a myth—that it had no existence? A.—It was a myth.

Q.—Had it an office in Detroit? A.—Yes; it had an office, and Directors, and a Secretary.

Q.—How was it a myth, then? A.—In conversation we referred to Mr. Brydges and Mr. Reynolds as being themselves the Company.

Q.—Perhaps you will also go so far as to say they were the Great Western Company as well? A.—It was said they were that, too. It was remarked over and over again that the Detroit and Milwaukee had no legal organization.

Q.—You say that an arrangement was made by you for the purpose of retiring the notes of persons holding Detroit and Milwaukee paper? A.—As I have said before, we undertook to save them the trouble of sending to New York, by retiring them for them.

Q.—As I understood you, neither you nor the Commercial Bank considered the Detroit and Milwaukee in any manner liable; but the Great Western? A.—For my own part, I always thought the Great Western responsible.

Q.—I ask you if the Bank considered the Detroit and Milwaukee liable to you? A.—We never considered them liable.

Q.—When you held a note of the Detroit and Milwaukee for \$100,000, or for \$50,000, you never thought them liable? A.—We had the Great Western as collateral.

Q.—But if the Great Western had gone down? A.—Then I suppose we should have sued on the notes.

Q.—Against whom? A.—Against the parties concerned.

Q.—Now, Mr. Park, I suppose you are aware that the first £150,000 sterling which was lent by the Great Western Railway Company to the Detroit and Milwaukee Railway Company passed into your hands? A.—I cannot say. I should have to examine the books to see how it was, before giving an answer.

Q.—I suppose your Bank understands some of the legal liabilities of a corporate body, does it not? A.—I do not know. I have never troubled my head up to this time about it.

Q.—Did you not represent to Mr. Brydges that they could not guarantee any paper at all?—that their charter did not allow them to guarantee, and that it only held them liable on endorsements? A.—I do not recollect.

Q.—You were subpoenaed as a witness of the Great Western Railway, I believe? A.—I have two subpoenas.

Q.—But you were subpoenaed by the Great Western Railway in the first instance? A.—Yes.

Q.—And you were subpoenaed by the Bank since you came to Kingston? A.—Yes.

Q.—You went to get information for them. I asked you to do the same for us, and you refused. You objected to give me information; but you went to the other side and gave them information? A.—Had your

tone and manner been different, our conversation would have gone on pleasantly enough. Mr. Irving told Mr. Crooks that he wanted an interview with me. But I was ushered into a sort of Star Chamber, and I would not submit to it.

Mr. M. C. CAMERON—You asked Counsel did you not, whether you had a right to give information to those who had suborned you?

Mr. EGGLE—He did not ask whether he had a right to give evidence.

WITNESS (to Mr. M. C. Cameron)—The fact is, you commenced to bully me and I would not stand it.

Mr. M. C. CAMERON—I asked you how these arrangements with the Commercial Bank arose, and you flatly refused to answer.

WITNESS—What I said was, why should I answer.

Mr. M. C. CAMERON—And I replied that I supposed you were an indifferent witness, and would tell the truth.

WITNESS—You put the matter in this way—that if I would not enter into a long conversation with you on the subject, I was no gentleman.

Mr. M. C. CAMERON—And you refused to do so. You said you would take the advice of counsel, and return at ten o'clock.

Mr. IRVING—All I did was to tell Mr. Crooks that I wanted to see you at the hotel for a few minutes.

WITNESS—You said that I had told Mr. Crooks all he wanted, and you made some insinuations in regard to myself and the Bank. The fact is, Mr. Cameron and Mr. Irving behaved badly to me—Mr. Irving insisting that because I was out of the service of the Bank I ought to go against them.

Mr. M. C. CAMERON—Did Mr. Irving now make any such allusion? A.—Mr. Irving said they had treated me badly, and they deserved no gratitude. After that I refused to continue the interview with persons who would make such suggestions.

Q.—Mr. Irving simply said that you were not now in the employment of the Company. He said he understood that you had been summarily dismissed. That's all. There was surely nothing wrong in that?

A.—I was very much annoyed at his remarks, any way.

Mr. M. C. CAMERON—I wished to ascertain the nature of his evidence; and Mr. Irving told him that he did not consider there was any obligation on his part to the Commercial Bank, because he understood that the Commercial Bank had not served him exactly fairly.

Mr. EGGLE—But he did not want to have any such advice from Mr. Irving.

Mr. M. C. CAMERON (handing a letter to the witness)—What is that about? A.—It is about the steamboat account.

Mr. M. C. CAMERON read it.

Mr. M. C. CAMERON—The credit arranged with the Great Western Railway Company was to be for \$200,000, and there was subsequently an arrangement made for a credit of \$100,000 to be got for the Detroit and Milwaukee Railway? A.—It runs in my mind that it was to be \$200,000 for the Detroit and Milwaukee.

Q.—You are mistaken. As an inducement to you to let the Detroit and Milwaukee have a credit, I thought it was represented that the Great Western traffic receipts would keep the Great Western overdraft down; and that being the case, I understood that the Bank had no objection to the Detroit and Milwaukee having \$100,000? A.—Whatever it was, it was applied to No. 2 account.

Q.—You have asserted as a fact, that it was part of the arrangement made between the Great Western Company and the Commercial Bank that you should retire the obligations due by the Company to the Bank of Upper Canada? A.—The Commercial Bank undertook to pay the overdraft of \$300,000.

Q.—How was it to be done? By exchange? The Great Western Company, I believe, were to give their bond, or failing that, they were to give exchange? A.—It was just any ordinary overdraft.

Mr. M. C. CAMERON—Was it not to be discharged by exchange? Listen to this letter.

Hon. J. H. CAMERON—The manner in which the Great Western paid the Commercial Bank was by a Bill on England for £85,000 sterling.

Mr. M. C. CAMERON—This is Mr. Ross' letter, I believe; and the arrangement was made before Mr. Reynolds came out to this country? A.—Mr. Reynolds came out in September, 1857.

Q.—One of the objects you had in view in opening this account was to have your bills circulated in Michigan? A.—It was an inducement, certainly. Of course we wanted a circulation, though we did not care a great deal where that circulation was.

Q.—Here are other letters of yours (handing some other letters to the witness). One is dated 22nd May, 1858, written before the acknowledgment letter of which we have been speaking, and both addressed to Mr. Reynolds as Vice-President of the Detroit and Milwaukee. Here, however, is another letter addressed to him by you as the finance director of the Detroit and Milwaukee. What is the reason of the difference? A.—The letters were written in that way so as to keep the accounts separate.

Q.—Have you a letter of the 19th January, 1858? A.—I do not think I have.

Mr. M. C. CAMERON—Then I will read a copy of it. It is as follows:

Mr. M. C. CAMERON—Here is a letter of the 29th October, 1858. Who wrote it, and to whom was it written? A.—It is a letter written by me to Mr. Reynolds as Vice-President of the Detroit and Milwaukee Railway.

Q.—Look at this letter of the 21st May, 1859, and see what you are able to make out of that? A.—It looks like a reference to the discount of the Detroit and Milwaukee promissory notes.

Q.—Are you aware whether this comes from the Windsor office or not? A.—It does.

Mr. M. C. CAMERON—Read it.

WITNESS read the letter.

Mr. M. C. CAMERON—What did you mean by V. P.? A.—Vice-President.

Mr. M. C. CAMERON—I hope your Lordship has noted the fact that there were to be two loans from one Company to the other—one for £150,000 sterling; the other for £100,000 sterling.

The learned JUDGE—I have noted it.

Mr. EECLES (to witness)—I would like to know exactly what Mr. Cameron threatened to do on Saturday night, when he began to bully you? A.—He told me that he would pay me off for it in Court; or something like that.

Mr. EECLES—And has he paid you off? A.—I think he has acted to-day very much more like a barrister than he acted on Saturday night. He has kept his temper to-day better than he did then.

Mr. EECLES—But he had you all alone with him then.

Mr. C. S. Ross called and examined by Mr. Eecles.

Q.—You were the cashier of the Commercial Bank at Kingston, in 1857, I believe? A.—I was.

Q.—What was the date of the first communication you received from the Great Western Railway Company, in regard to your opening a banking account with them? A.—August, 1857.

Q.—From whom did it come? A.—Mr. Park wrote me to go and see these gentlemen, and in consequence of his communication I went up to Hamilton.

Q.—Did you make any arrangement for the transfer of the account? A.—Yes; we agreed about it.

Q.—And was the account of the Great Western transferred to your Bank on the Board approving of the arrangement? A.—It was.

Q.—Were there any overdrafts owing to the Bank of Upper Canada which you had to dispose of? A.—There were. Our Bank had to pay them off by cheques once a week.

Q.—In regard to the arrangements with the Detroit and Milwaukee Road—when was the first time you heard about them? A.—The first I heard of the matter was by receiving a letter from Mr. Park at the end of December, 1857.

Q.—What did you do in consequence of that letter? A.—I asked him to arrange a meeting between Mr. Reynolds and ourselves in Toronto. I went to Toronto and saw Mr. Reynolds there on the 29th December. Mr. Park was present at the interview, which took place at the Roma House. Mr. Reynolds gave a general explanation of the views of the Great Western in regard to the Detroit and Milwaukee Company. The gist of it was, that they felt themselves necessitated to enter into arrangements for the control of the line. He said that the road was necessary to the Great Western, and they were about to become its officers and directors, and were to have full control over it. Then he went on to explain in a general way the state of the finances of the Detroit and Milwaukee Road, and what he thought ought to be done to place them in a proper position.

Q.—What did he propose to you in the way of raising funds for that purpose? A.—He asked us to open an account with the Detroit and Milwaukee, and to advance what was necessary. But no sum was named. The money to be advanced was always to be covered by bills of exchange on the Great Western Railway Company in London.

Q.—And what was your answer? A.—My answer was that we could not give a credit to the Detroit and Milwaukee.

Q.—What further did you say? A.—I said we could not give a credit to a company in such a position, but we could give a credit to the Great Western Company.

Q.—What followed that? A.—When Mr. Reynolds found that such were my views, he acquiesced in the proposition that the Great Western should intervene.

Q.—When he acquiesced in your offer to give the credit to the Great Western Company, was anything said as to the manner in which the account should be paid? A.—Yes; it was to be met by monthly bills of exchange on London.

Q.—That is the same mode of payment which has already been spoken of. They were to pay by monthly drafts on England? A.—Yes; that was to be the way.

Q.—You say you spoke of the manner in which the account should be opened? A.—I proposed that it should be opened as Great Western account No. 2. Mr. Reynolds said that would involve the necessity of running the cash transactions of the Detroit and Milwaukee through the books of the Great Western; and afterwards it was decided to open it in the way in which it appears in the ledger—that it should be headed, "Detroit and Milwaukee Railway account Great Western Company."

Q.—Who suggested this? A.—I did.

Q.—And that seemed to suit his own ideas? A.—He concurred in it.

Q.—You have had no further verbal communication with them from that time to this for any proposal in regard to an open credit? A.—I do not think we have had.

Q.—You have seen the letter dated 30th March, 1858? A.—I have.

Q.—And was that the first communication you received either from Mr. Reynolds or Mr. Brydges since your arrangements with Mr. Reynolds in Toronto? A.—I am not sure that there was nothing intervening.

Q.—Is this the first letter you received (handing a letter to witness)? A.—It is.

Mr. EOCLES.—It is from Messrs. Brydges and Reynolds to Mr. Ross, and is as follows:

[See Letter of 11th January—Appendix, p. 46, Exhibit No. 61.]

Mr. EOCLES.—Here is another letter of the 10th January? A. I recollect that. It is from Messrs. Brydges and Reynolds, and is signed by both. There is also a letter of the 2nd March, 1858, from Mr. Brydges alone to me. There is a further letter, of the 30th March, from Messrs. Brydges and Reynolds jointly.

Mr. EOCLES.—I will read that of the 30th March. It runs thus:—

[See Letter of 30th March—Appendix, p. 53, Exhibit No. 72.]

Mr. EOCLES.—Have you the answer to that letter?

Mr. IRVING.—The letter of the 1st of April, 1858, is the answer.

Mr. EOCLES (to witness).—In consequence of that letter was there a Board meeting called? A.—A Board meeting was held, at which that letter was submitted.

Q.—And what was the result? A.—The minutes will show what was done.

MR. M. O CAMERON.—The minutes are not evidence.

MR. ECKLES.—Yes, they are. You write a letter asking that a certain thing may be done; and, when we propose to produce the books to show how it was done, you say that the books cannot be received. (To the learned Judge).—Has your Lordship any doubt on the subject?

THE LEARNED JUDGE.—I have none whatever.

MR. M. O CAMERON.—I make the objection, my Lord, that such evidence is not admissible.

MR. ECKLES.—The following is the minute:—

(See Minutes of the Executive Bank, 1st April, 1859—Appendix, p. 119, Exhibit No. 90.)

M. ECKLES (to witness).—And was a resolution drawn up in pursuance of this minute? A.—Yes.

Q.—Did you write to them in consequence? A.—I answered their letter on the 1st April, 1859. My reply is as follows:—

[See Letter of 1st April, 1859—Appendix, p. 83, Exhibit No. 78.]

MR. ECKLES.—The next letter is dated 14th April, 1859. It is signed by Messrs. Brydges and Reynolds. I will first read it, and then put it in:—

[See Letter of 14th April, 1859—Appendix, p. 84, Exhibit No. 79.]

The next is from Mr. Ross on the 15th April:—

[See Letter of 15th April, 1859—Appendix, p. 85, Exhibit No. 79.]

The next is to Mr. Park, from Mr. Brydges, Managing Director, and Mr. Reynolds, Finance Director, of the Great Western, and is dated 16th December:—

[See Letter of 16th December, 1859—Appendix, p. 60, Exhibit No. 90.]

Then comes a letter to Mr. Ross, of 26th January, 1859:—

[See Letter to Mr. Ross, of 26th January, 1859—Appendix, p. 61, Exhibit No. 91.]

On the 29th January, Mr. Ross writes:—

[See Letter of 29th January, 1859—Appendix, p. 61, Exhibit No. 92.]

The next is to Mr. Ross, and is dated 31st January:—

[See Letter of 31st January, 1859—Appendix, p. 62, Exhibit No. 93.]

Mr. Ross's answer is dated 7th February, 1859. I will read it:—

[See Letter of 7th February, 1859—Appendix, p. 63, Exhibit No. 94.]

Then there is a letter of the 10th February, in which they say:—

[See Letter of 10th February, 1859—Appendix, p. 64, Exhibit No. 95.]

The next is addressed to Mr. Ross, on the 25th May, 1859:—

[See Letter of 25th May, 1859—Appendix, p. 71, Exhibit No. 108.]

I also hold in my hand a statement, the original of which has been put in, shewing the liabilities and assets of the Company on account of both lines, blending them together as one transaction.

WITNESS.—There must be other letters.

MR. ECKLES.—I presume they have been put in by Counsel on the other side. When did your Bank transactions with these gentlemen cease? A.—It must have been in December, 1859. But so; the account was not removed, by the way, until March, 1860.

Q.—Can you explain how it happened that this account with the Great Western, on the D. and M. transactions was allowed to increase to the sum at which we now find it? A.—I think Loan. During the year 1858 (after the crisis of 1857), the business of Canada had run down very much; and the Banks felt the prevailing depression. Such being the case, we were glad to have the benefit, as a Bank Account, of the Great Western Railway Company's business; and we were anxious to meet their views as far as possible. Our whole available capital was not wanted for ordinary business customers. Consequently, we agreed to meet their views to this extent, that when we could accommodate them we should do so. This is a brief explanation of the reason why the account was allowed to run up, and assume such large dimensions.

Q.—In the whole course of your dealings, did you for a moment cease to look upon the transaction as one

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with the Great Western proper? A.—Never, until after the fall of 1859, when they told us that they did not consider themselves liable for the No. 2 Account. That was the first intimation I had to the contrary.

Q.—Would you have given credit to the Detroit and Milwaukee Company? A.—Do you mean in the way of opening a credit with them?

Q.—Yes? A.—No; certainly not. We would not have advanced money on their responsibility. The Detroit and Milwaukee Company had a deposit account at the Windsor Branch and there was a temporary overdraft there, arising out of a circumstance which the local Agent can explain. But there was no credit account kept at Windsor. I do not know how the balances were transmitted from that to Hamilton.

Cross-examined by Mr. M. C. CAMERON.

Q.—Are you the President or the Cashier of the Bank? A.—I am now the President of the Commercial Bank.

Q.—It seems to have been understood between these gentlemen, that a reference of these matters to the Board was necessary before any definite arrangements could be made. You could not of yourself grant a credit to Messrs. Brydges and Reynolds without a reference to your Board? A.—I was in the habit of referring matters of consequence to the Board, for the sake of advising with the Directors upon them.

Q.—And you considered this a transaction to be a matter of magnitude? A.—Certainly.

Q.—How was it, then, that you did not take care to see it was referred to their Board? A.—I took it for granted that, as a matter of course, they would refer it to their Board.

Q.—In their letters, they requested you to lay the matter before your Board. But you did not request them to lay it before their Board? A.—No; I took it for granted that they would do so, without my requesting them to do it?

Q.—And you never took the trouble to make any enquiries on this head? A.—I did not.

Q.—Do you know the manner in which the cheques were drawn against the Company? A.—I must have seen them.

Q.—And do you not know, also, that these cheques have not anywhere upon them the words "Managing Director," or "Finance Director?" (Referring to Appendix 175, 176, 177, pages 109 and 110.) A.—These Great Western cheques used to come through my hands in the office.

Q.—But there is a difference between the Great Western cheques and these cheques of the Detroit and Milwaukee Company. Pray, don't be confounding them. I ask you if you know that these cheques were drawn by these gentlemen in the shape in which I am now presenting them to you? A.—I was not aware of it.

Q.—This is not the way in which you, as Manager of the Commercial Bank, would draw a cheque, is it?

A.—If I drew it as Manager, I should attach to it my official designation.

Q.—And if you signed it as "C. S. Ross," simply? A.—It would then be on my own account.

Q.—Are you aware of the nature of the connection existing between the Detroit and Milwaukee Railway Company and the Great Western? A.—I only know it from the information given me by Messrs. Reynolds and Brydges.

Q.—Did you not understand that the Great Western Railway were making a loan to the Detroit and Milwaukee Company? A.—I knew of it, certainly. But I cannot tell when I first became aware of it. It was very likely at our interview in Toronto with Mr. Reynolds.

Q.—And it was from this source that the payments were to be made to the Bank? A.—We were to get the receipts of the Detroit and Milwaukee Railway.

Q.—Then you were to look to the Detroit and Milwaukee Company for payment? A.—Oh dear, no, Sir!

Q.—You did not understand from them that you were to be repaid by the Great Western Railway alone?

A.—They told us, when asking for credit, that we would be repaid by Great Western Exchange.

Q.—What had this to do with the Detroit and Milwaukee Railway? A.—I understood from Mr. Reynolds, at the meeting I have referred to, that there were to be a sufficient number of Great Western Railway Directors in Canada appointed to have the control of the road.

Q.—You did then understand that the Detroit and Milwaukee Company were to keep their individual

existence as distinctly as before? A.—There was nothing said about it. I, however, took it for granted that the Detroit and Milwaukee Company would practically cease to exist, and become a branch of the Great Western.

Q.—Did you not know that a part of the line was to commence from Port Huron? A.—As far as I knew, there was no road from Port Huron.

Q.—But did you not know that there was a Company which had a right to construct a road from Port Huron? A.—I did not know of it from my own knowledge.

Q.—Did you ever examine into, and take advice upon, the borrowing powers of the Great Western? A.—I never did.

Q.—Then you dealt with them on your own judgment? A.—We dealt with them as with gentlemen who knew their own powers.

Q.—Did they show you a Statement of the probable amount of Assets and Liabilities of the Detroit and Milwaukee Railway, during the year 1858, when they saw you, or did Mr. Park send you a Schedule of them? A.—I did not know of such a statement, until I heard Mr. Park speak about it.

Q.—He showed you the schedule? A.—I fancy that Mr. Reynolds showed me something of the kind, when we met in Toronto.

Q.—Was there anything about the Great Western Railway in it? A.—This statement (referring to a statement which Mr. M. C. Cambren had placed in his hands,) was not the statement. I don't think I have seen this before.

Q.—Look at this letter of the 11th January, 1858, and tell me what that refers to, if not to this? (Witness made no reply.) Was it a statement [*Appendix, p. 45, Exhibit No. 50.*] such as this, you saw? A.—I think not such as this.

Q.—What do you mean by "such as this"? A.—I mean that it was not made up in that way.

Q.—Did you not see this statement at the commencement of the arrangement? A.—I would not swear that I did not see it.

Q.—Supposing Mr. Reynolds represents this as being the document which he showed you on the occasion referred to, would you say that it is not? A.—I don't think it is; but I would not swear positively that it is not.

Q.—What was it that Mr. Park sent you? A.—As far as I can recollect, a schedule of the assets and expenditure on the two roads.

Q.—Was that before you saw Mr. Reynolds at Toronto? A.—I don't think I received any schedule before that time.

Q.—Then Mr. Park speaks untruly when he says that he did send it before that meeting? A.—I do not know whether I received it before or afterwards.

Q.—Did you lay the schedule before the Board? A.—Not that I remember.

Q.—Then the Board did not do anything upon that schedule? A.—No; not upon that. I explained the matter to the Board; and in the minutes of the 31st December, there is an allusion to it.

Q.—So you must have entered into the arrangement without the knowledge of the Board? A.—I told Mr. Reynolds I had no doubt that the arrangement would be carried out. I must have authorised Mr. Park to advance payments without the authority of the Board.

Q.—But if you did not refer it to them, you could not have had their authority? A.—In many cases of negotiations with our customers, I say, "I have no doubt this arrangement will be carried out by the Board." The necessary action is then at once taken in the matter.

Q.—Mr. Brydges and Mr. Reynolds had both private accounts with you, had they not? A.—They had.

Q.—And had they a joint account? A.—There was the steamboat account, if that is what you refer to.

Q.—Had they no other joint account? A.—I cannot see in the index any reference to any other joint account.

Q.—And you say, that when these gentlemen wrote, speaking of "our joint account," you understood them to speak of the Great Western Railway and the Detroit and Milwaukee account. A.—Certainly.

Q.—But would not that phrase be more applicable to the account in respect of which they drew in their joint character? A.—It has no such reference.

MR. M. C. CAMERON.—But it is so referred to in the letter.

MR. ECKLES.—In the letter it is "our joint Detroit and Milwaukee account."

MR. M. C. CAMERON.—It reads thus: "We request to be favoured with a credit of \$100,000, if necessary, on our joint D. & M. account?" A.—I understand this to mean, under their joint management.

Q.—How under their joint management? Who you mean by the "our," and who by the "joint"?

A.—Messrs. Brydges and Reynolds. The "our," in that case, means the Great Western.

THE LEARNED JUDGE.—How is the letter signed?

MR. M. C. CAMERON.—C. J. Brydges and Thos. Reynolds.

MR. M. C. CAMERON (to witness).—Did you telegraph, on the 7th January, 1858, to the Merchants' Bank, New York, at the instance of Messrs. Brydges and Reynolds, as to their acceptance of Raynor & Clark's draft? A.—I did.

Q.—And the acceptance, you therein refer to, was not an acceptance of the Great Western Railway Company? A.—Of course not.

Q.—Then you were not acting for the Great Western in authorising this transaction? A.—I had no right to exercise any such authority. I asked Mr. Silliman to cash it, but not for the Bank.

Q.—How many of these have you accepted in this way since? Have you not accepted hundreds of them? A.—I dealt with them in regard to these acceptances as the officers of the Detroit and Milwaukee Railway.

Q.—How was it, that when you entered into the arrangements with Mr. Reynolds, you did not get any writing? A.—I did not consider it necessary.

Q.—But you did consider it necessary when you entered into arrangements in regard to the Great Western account proper? A.—Only to get details to place before the Board.

Q.—Did you know the amount of the loans to the Detroit and Milwaukee from the Great Western? A.—I understood they were two sums: one of £100,000, the other of £150,000 sterling. I understood that the £150,000 was passed in October, 1857.

Q.—You understood, you say, that the Great Western shareholders had passed a resolution authorising a loan of £150,000 sterling to the Detroit and Milwaukee Railway? A.—Yes.

Q.—And when did you understand the £100,000 sterling appropriation was made? A.—If my memory serves me right, it was in October of the following year.

Q.—Were you aware of it, when the letter of the 16th December, 1858, was written. A.—I was.

Q.—Was that letter written at your instance? A.—I had some correspondence with Mr. Park on the subject.

Q.—Have you that correspondence with you? A.—I have not. It is private; there are no public letters about it.

MR. M. C. CAMERON.—But they are public letters—as public as any letters you have shown here to-day.

MR. CROOKS.—I will give you the letter if you wish to see it. Here it is (producing it).

MR. M. C. CAMERON read it as follows:

[See Letter of 15th December, 1858—Appendix, p. 60, Exhibit No. 89.]

MR. M. C. CAMERON.—What does he mean by saying, "We have made up our minds to treat it all as one?" A.—It was not in writing before.

Q.—You had trusted the Detroit and Milwaukee Company with \$335,000 up to this time? A.—It was not the Detroit and Milwaukee Railway account. The monies were advanced on Great Western No. 2 account.

Q.—You never used the words "No. 2," in your correspondence. How is that? A.—You will see that I speak of "general account," and "special account," frequently.

Q.—Had you any conversation with any other directors or officers of the Great Western, besides Messrs. Brydges and Reynolds, while this account was running? A.—I may have done so; I may have seen Mr. Juson, and conversed with him on the subject of the Great Western.

Q.—Did you speak to Mr. Jason in reference to the money matters of the Company? A.—I have no recollection of having done so.

Q.—Did you ever say a word to him, or to any one else connected with the Great Western, in regard to the position of the Detroit and Milwaukee, with the exception of Messrs. Brydgos and Reynolds, up to 1859? A.—I cannot say that I did.

Q.—Did you know that it was contemplated to get a further loan from the shareholders of the Great Western, in aid of the Detroit and Milwaukee? A.—I must have heard of it.

Q.—Did you ever press upon the gentlemen of the Great Western the desirability of getting this further loan? A.—I may have done so, but I do not recollect it.

Q.—How is it that your recollection is so bad in regard to these important matters? A.—I do not know. I have not desired to make it bad. I have endeavoured to speak the truth.

Q.—Did you ever see those gentlemen in New York? A.—I remember meeting them in New York; but I cannot call to mind the date. I had gone from Kingston, then, most likely.

Q.—Did you see them there more than once? A.—I think I did see them there more than once. I went to New York to see Mr. Campbell.

Q.—He had been to England, I believe. What for? A.—He went there to recover his health.

Q.—Had his visit nothing to do with the Detroit and Milwaukee Company? A.—Nothing official.

Q.—Did he not endeavour to aid the Company in getting a new loan? A.—I am not aware that such was the case.

Q.—Did you receive any letters from him, whilst he was in England? A.—Yes; there were letters.

Mr. M. C. CAMERON.—Be good enough to let us have those letters.

Hon. J. H. CAMERON.—You cannot have them. You had better confine yourself to the legitimate business of the case.

Mr. M. C. CAMERON (to witness).—Did he write to you on the affairs of the Bank? A.—My memory is not so certain as to enable me to state positively. But he may have alluded to it.

Q.—Did you not go to New York to meet Mr. Campbell and Mr. Brydgos, on their return from England; and did they not inform you that they had been unable to procure a further loan for the Detroit and Milwaukee Company? A.—I did not go on purpose to see them; but I did, however, see them at the St. Nicholas Hotel. I forget whether Mr. Campbell was with me at the time, or whether I was alone.

Q.—Do you not recollect what passed about the Detroit and Milwaukee and the Great Western? In order to jog your memory, let me ask you if your friend Mr. Campbell did not fall asleep in the reading-room, and thus you were disappointed? A.—Yes, I do recollect that circumstance; but I cannot tell what was said.

Q.—But it was a matter of consequence to you, was it not? A.—Yes, inasmuch as they were about a million of dollars in our debt. Still I cannot remember the conversation, though I presume it must have been about our advances, and their plans for repaying them.

Q.—Did not Mr. Campbell tell you that he had got a couple of notes from Mr. Brydgos, in order to stave off difficulties? A.—Yes, there were notes given, but they were never used, as the Bank was never in difficulties.

Q.—What has become of those notes? A.—I believe they are in the Joint Stock Bank, London. Mr. Campbell left them there.

Q.—Look at this letter (showing witness a letter), and see if it is not a letter written by Mr. Park? A.—It is evidently Mr. Park's handwriting, but the letter is not addressed to anybody.

Mr. M. C. CAMERON.—I will read it. You will often see that it is addressed to Mr. Reynolds. It is as follows:

[See Letter of 10th November, 1859, Appendix 154, p. 97.]

Mr. M. C. CAMERON.—This seems to be a nice little reference to the difficulties they had in England? A.—These are Mr. Park's own views.

Q.—Do you remember a request being made by your Directors to the Directors of the Great Western Railway Company, in August 1857, to lay a proposition about the opening of an account before their Board? A.—I do not recollect.

Mr. M. C. CAMERON.—I will read it; and you will see that at that time you urged the necessity of having an affirmation on the part of the Great Western Railway Company. It runs thus:

[See Letter, 11th August, 1887—Appendix, p. 41, Exhibit No. 53.]

Witness.—That refers to the giving of the credit.

Mr. M. C. CAMERON.—You have heard that the Great Western Railway Company required their cheques to be signed by the President, Secretary, and two Directors? A.—I have heard it to-day, for the first time.

Q.—Did you see Messrs. Brydges and Reynolds in the City of Toronto, at any time in the year 1859?

A.—Mr. Campbell and myself had an interview with them in Toronto; but I forget whether it was in 1859 or 1860. I think it was in 1860.

Q.—Where did it take place? A.—In the Romain House.

Q.—What was the subject of the interview? A.—It was about bringing back the account.

Q.—Then there must have been an earlier interview? A.—There may have been.

Q.—Do you recollect of an interview at the same place in June, 1859? A.—Now you mention the month, I do recollect it. But I do not remember what took place then.

Q.—You have told us what took place at the Romain House, a year before, and it is strange indeed that you cannot remember the occurrences of that time. Had the conversation anything to do with the covering of the Detroit and Milwaukee account—with the reducing or retiring of it in any way? A.—I think it had reference to reducing it.

Q.—Did you take any securities of the Great Western Railway Company at that time? A.—I do not recollect.

Q.—You don't recollect this, and you don't remember that. Why, yours is a kind of *non mi ricordo* evidence. But perhaps you can tell us something more about the conversation in 1857, when the first arrangement was made with Mr. Reynolds. Tell us who commenced the conversation, and what it was? A.—Do you mean on the 29th December.

Q.—That's just what I do mean. Tell us something more about it? A.—I do not know who commenced the conversation; but I take it for granted that the first conversation related to their views in regard to the Detroit and Milwaukee Railway.

Q.—Was not the account of the Great Western overdrawn at that time to the extent of \$269,000. A.—On the 29th December, I find an entry of £53,398.

Q.—I believe that Messrs. Brydges and Reynolds met you and other members of the Board at Kingston, in the year 1860? A.—Yes; early in the year 1860.

Q.—And you wished these gentlemen, without the authority of their Board, to give you bills of exchange or notes of acceptance to settle this account? Did you not say that if they would give you acceptances or promissory notes of the Great Western Railway Company, you would give them any time they might require for the settlement of the claim, and nothing need be said about it beyond those who were then present? A.—We did suggest the drawing of exchange, but nothing was said about promissory notes; neither was anything said as to the matter not being spoken of elsewhere. I distinctly deny having made any suggestion of the kind.

Q.—Did not these gentlemen say that they were not authorised to do what you required of them? A.—They said they did not think they were authorised; but they would submit the matter to the Board.

Q.—And the Board repudiated such a thing? A.—Mr. Brydges replied in a letter that, in looking into the matter, they found that they had not authority to give bills of exchange or promissory notes.

Hon. J. H. CAMERON read the letter as follows:—

[See Letter of 13th January, 1860—Appendix, p. 100, Exhibit No. 159.]

Mr. M. C. CAMERON (to witness).—Were you to have given up any thing besides, so as to induce them to do what you wanted? A.—I forget. But I think that allusion was made to Great Western bonds.

Q.—You mean the bonds given by the Great Western Company on the distinct understanding that they should be returned to them by you? You were to have protected the Detroit and Milwaukee notes, for which they were given as collateral? A.—The bonds were given to me to assist in negotiating the Detroit and

11. Milwaukee notes in New York. But in negotiating these notes, I did not act for the Bank, but in my individual capacity.

Q.—I want to know how it was that your Bank paid these notes? A.—They were paid because I had promised to the parties interested that the Bank would see to their being paid.

Q.—And yet you say you were not acting for the Bank? A.—I was not.

Q.—You say that you pledged the Bank to retire this paper, and yet you were not acting for the Bank—that you pledged the credit of the Bank without the authority of the Bank? A.—I said that we would see the notes paid.

Q.—Who do you mean by the "we?" A.—"We," meaning the Bank

Q.—Who endorsed the notes? A.—Mr. Brydges and Mr. Reynolds personally: Mr. Plumb effected the negotiation, but I do not know if he endorsed the notes. I did not endorse them, nor did any one else endorse them on behalf of the Bank.

Q.—What was your object in discounting them? A.—Messrs. Brydges and Reynolds undertook to give us sterling bills at a certain date; though afterwards they found that they were unable to do so. The Bank were to get the proceeds of these bills.

Q.—The notes were renewed by you several times, as Cashier of the Bank, before they were taken up, I believe? A.—The renewals would be made by me. The Commercial Bank paid them at maturity.

Q.—Was this bill (handing witness a bill) [Appendix, 117, p. 77,] retired by you? A.—By the bank.

Q.—And when you renewed the notes it was as the property of the Bank? A.—It was

Q.—How did you come to charge them to the Great Western Railway Company? A.—They were taken up for their benefit.

Q.—But the liability ~~was~~ not a liability of the Great Western? A.—I beg your pardon, but it was.

Q. Then this transaction was just a similar transaction to the others? A.—Not at all; it was a special affair. But I may say that this was the only instance of our going out of our way.

Q.—But why did you claim the bonds of the Great Western, if you held the Great Western liable for these notes? A.—As I told Mr. Reynolds at the time, the Great Western Company were liable to us for these notes; but as the notes could not be transferred in the negotiations at New York without the bonds, I asked him to give me bonds of the Great Western Railway.

Q.—Why did you not give these bonds up, as at first arranged? A.—Some time afterwards Mr. Reynolds wrote a letter to Mr. Park, of such a character, that we did not consider ourselves in a position to give them up. We then supposed that they would be given up concurrently with another arrangement being made.

Q.—The bonds were only to be used for discounting the notes, and yourselves were to protect the notes
Is not that as you understood it? A.—Not until afterwards.

7 Q.—When did you first become aware of Mr. Park's letter? A.—It was in the fall of 1859, or the end of 1859; I cannot tell the exact date.

Q.—You saw the understanding on which these bonds were given, and yet you held on to the bonds for nearly a year afterwards. Do you not recollect that circumstance? A.—No; I do not remember it. I do not think it was so long.

Q.—When you were in New York, did you there read a letter from Mr. Park to Mr. Brydges, on the subject of these bonds? A.—I do not recollect. What date do you refer to?

Q.—I do not know. It was a letter represented to have been received from Mr. Park on the subject. Did you discuss the matter of these bonds in New York? A.—I do not recollect reading a letter from Mr. Park on the subject.

Mr. M. C. CAMERON.—You will see that Mr. Brydges has not forgotten it. You have now to deal with men who do not easily forget.

Mr. ECCLES.—It is somewhat singular though, considering that they have such good memories, that they have forgotten to pay this debt.

Hon. J. H. CAMERON.—No; they have recollected not to pay it.

Mr. M. C. CAMERON.—Allow me to read you a letter.

October, 1859, Mr. Mark wrote this letter to Mr. Stebbins, the Secretary of the Great Western Railway Company: *The letter of the 10th October, 1859—appendix, p. 40, Exhibit 207.*

Mr. W. M. Stebbins, Secretary of the Great Western Railway Company. Now, how often did you see Messrs. Baynes and Baynes in relation to the Detroit and Milwaukee Railway? A.—I cannot say positively how many times. I saw them not so much as half a dozen.

Q.—Were you in the city of Detroit or Milwaukee at the time of the Detroit and Milwaukee and of the Great Western Companies? A.—Yes. I was in Detroit at the time that coupons all about the loan from the Great Western to the Detroit and Milwaukee Companies? A.—If it was so stated.

Q.—Your paper considered the Detroit and Milwaukee liable to you on account of advances made to carry on their works? A.—No.

Q.—And when you paid coupons of the Detroit and Milwaukee Company, you did not consider the Detroit and Milwaukee liable for these coupons? A.—These gentlemen handed us back the coupons as collateral.

Q.—You paid these coupons after the Great Western repudiated, I believe? A.—I suggested to Mr. Baynes in November, 1859, before we heard the result of the London meeting, that it would be advisable, on account of the credit of the Company, to see to their being paid. He agreed in the view I took myself about them; but I did not feel myself authorized, of my own mere will, to pay them.

Q.—But why should you care anything about the credit of the Detroit and Milwaukee? A.—We had claims against the Detroit and Milwaukee, irrespective of this account. We had bills of the contractor, Ridley, and others, running.

Q.—What amount of Ridley's bills did you hold? A.—I remember the amount of the judgment, but nothing else. I cannot tell what Mr. Ridley's claims amounted to before the judgment, but it was some \$25,000 or \$30,000, besides the collateral notes.

Q.—Here you were purchasing a judgment claim against a Company which had been bankrupt for years before. How was that? A.—Embarrassed would be the proper way in which to put it. I thought it would place the Bank in a better position.

Q.—When you had the interview in Kingston, did you not assert your right to hold these bonds? A.—Very likely I did.

Q.—And did you not go to Detroit to see about the Detroit and Milwaukee Company? A.—Yes; I went to see about that matter of Ridley's. I had other business, also, in Detroit; with, among others, Mr. Stewart and Mr. Ward. I never went to Detroit with the view of seeing how the Company was getting on.

Q.—Did you buy any securities of the Detroit and Milwaukee Railway? A.—No. I did not buy any securities. Hon. J. H. CAMERON.—That is not a matter of the slightest importance to this case; and we do not choose to let Mr. Ross say whether he did or did not buy Detroit and Milwaukee securities.

Mr. M. C. CAMERON.—It is material to know, so that we may estimate the weight to be attached to his evidence in connection with the evidence of other witnesses. The question being asked; but, as respects Mr. Ross, he may refuse to disclose the nature of his private business; and, therefore, I consider that Mr. Cameron has no right to ask about my private business; and, therefore, I have nothing to conceal, I will not answer such a question.

Hon. J. H. CAMERON.—Acting under our advice, Mr. Ross is not to answer the question. Mr. M. C. CAMERON.—Did the Bank, then, get some of these securities? A.—The Bank did take some, and held them as collateral.

Q.—I understand that you transferred stock made out in your own name to the Bank after the securities had gone down? A.—No, Sir.

Q.—All I can say is, that a gentleman at the table, who is an officer of the Bank, has so asserted it? A.—Then it is not true.

Hon. J. H. CAMERON.—It must have been the dinner-table, because the old adage says, that "when the wine is in, the wit is out."

Mr. M. C. CAMERON (to witness).—What kind of bonds of the Detroit and Milwaukee Railway did the Bank hold? A.—Second mortgage bonds and interest bonds. They took them as collateral to a note. I cannot remember the amount, but it may have been \$100,000 putting the two together.

Q.—Turn to the board minutes of the 29th December, 1859. Do you find there a minute in reference to these bonds. A.—I do. It says—"The Cashier reported that he had purchased \$14,000 of the Detroit and Milwaukee bonds."

Q.—But these were not received as collateral. They were an actual purchase, were they not? Is this letter (handing witness a letter) in your handwriting? A.—It is.

Mr. M. C. CAMERON.—I will read it:—

(See Letter of 9th April, 1858—Appendix, p. 58, Exhibit No. 74.)

Mr. M. C. CAMERON (to witness).—You were dealing in the bonds at that time, I believe? A.—The note you have read relates entirely to private business. The whole tenor of it is private; and Mr. Reynolds has no business to introduce such a letter.

Q.—But, after all, you have been dealing with these securities? A.—I never denied it.

Q.—I suppose, Mr. Ross, it would not be unnatural to suppose, that if you had confidence in these securities, as a private individual, you would have the same confidence in them as a Bank officer? A.—I never allowed my private matters to interfere with my official position.

Q.—And you would peril your own means when you would not jeopardise those of the Bank? A.—Undoubtedly. I have done so dozens of times.

Q.—It has been said, that the Trustees have swallowed up the Detroit and Milwaukee Road: that, in fact, it has become the property of a new Company. The Commercial Bank of Canada were a party to that arrangement, were they not? A.—I do not consider myself competent to give an answer to a legal question of that kind.

Hon. J. H. CAMERON.—Decrees and agreements speak for themselves.

Mr. M. C. CAMERON.—Did the Bank, as a matter of fact, know of the arrangement?

Hon. J. H. CAMERON.—Don't answer that question, Mr. Ross.

Mr. M. C. CAMERON.—I ask, does the witness know as a fact that the proceedings taken by the Trustees of the Great Western, so as to obtain possession of the Road, were concurred in by the Commercial Bank?

Hon. J. H. CAMERON.—Is it in writing?

Witness.—It is not in writing.

Mr. M. C. CAMERON (to witness).—You had better answer.

The learned JUDGE.—Yes; the witness should answer that question.

Witness.—Mr. Campbell, our inspector, was a party to the arrangement.

Mr. M. C. CAMERON.—And thus, you see, all the rascality charged against the Trustees, for swallowing up this Road, received the full concurrence of the Commercial Bank. The Commercial Bank, I believe, also bought some Detroit and Pontiac Railway Stock? A.—No.

Q.—Did Mr. Campbell, then, buy it? A.—Not as an officer of the Bank.

Mr. M. C. CAMERON.—For his private use, I suppose.

Mr. ECLES.—Do not tell him, Mr. Ross, anything about Mr. Campbell's private affairs.

Mr. M. C. CAMERON (to witness).—Did Mr. Campbell report the matter of the arrangement between the trustees of the Great Western and the Detroit and Milwaukee, to your Board, and did the Board concur in them or not? A.—Yes, he reported the matter; but there was nothing done by the Board in the shape of concurrence; there was nothing official about it.

Q.—Was it not to serve the interest of the Bank that it was to be done? A.—I fancy that was Mr. Campbell's motive.

Q.—In reference to the notes obtained by Mr. Campbell, when in England, from Mr. Edges, where are they? A.—I have already said they were in the London and Stock Banks. I believe they are there now.

Mr. Campbell thought that remittances would be required to cover the London account, and he procured these notes for that purpose; but remittances were obtained from this side, and the notes were not used.

Mr. M. C. CAMERON.—I will read a letter, from which you will be able to say whether these notes were to go to the credit of the Great Western or the Detroit and Milwaukee. It is in these words:

[See Letter, London, 23rd November, 1859, Appendix, No. 155, p. 99.]

Now that account must mean the account of the Great Western Railway Company? A.—It means what it says, that account.

Q.—Did you pay, or instruct your agents, the Merchants' Bank of New York, to pay, \$45,000 on account of the Detroit and Milwaukee Railway, since this difficulty with the Great Western? A.—No. They paid these bills without authority. They have themselves stated that they paid them without authority, and in mistake. We have a letter from them to that effect.

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Q.—But these payments are carried into the account now being sued on? A.—No; December, 1859, is the latest we charge in the account now being sued on. The ledger shows that these additional items are added in with what went before December, 1859.

Hon. J. H. CAMERON.—The Bank never claimed the latter sums? A.—No, Sir; the Bank held the coupons, that's all.

Mr. M. C. CAMERON.—With respect to the steamboat account, why did you trust Messrs. Brydges and Reynolds to the extent of \$180,000 on that account? That was while the difficulties were upon them, was it not? A.—I must look at the dates. That account, I find, was begun on the 27th November, 1859; but I cannot speak positively as to that being the first transaction.

Q.—You kept that account for some time, I believe, and then gave it up? When you gave it up, they went to the Bank of Upper Canada, but afterwards returned again to you? A.—Yes, we resumed the account again.

Q.—You were confiding in the individual responsibility of these gentlemen in regard to that account, I believe? A.—I was.

Q.—And that was no loan to the Great Western? A.—No.

Q.—If they were personally liable on that account, why were they not personally liable on this Detroit and Milwaukee account? A.—One account has no connection whatever with the other. We would trust these gentlemen personally, when we would not give credit to the Detroit and Milwaukee Company.

Q.—I understand that in the summer of 1860 you lent money to the Detroit and Milwaukee Railway Company? A.—I think you are mistaken. I must see the Windsor books. There have been advances made to the present Company, but they are now a new Company. We have made advances to the present corporation, but not to the old corporation.

Q.—After the closing of this account, you lent to the new Company, on the personal security of Messrs. Brydges and Reynolds, \$50,000? A.—There was that amount paid to the Bank of Upper Canada, if that is what you mean. We paid a bond due by them to the Bank of Upper Canada. I think we did not let them have the money for the Detroit and Milwaukee Company on their personal security, irrespective of the security of the Detroit and Milwaukee. The loans to the new Company were secured on the traffic receipts.

Mr. M. C. CAMERON.—Tell me about the account referred to in the following letter:—

[See Letter, Kingston, 23rd March, 1861, Appendix, p. 106, Exhibit No. 169, and Appendix, p. 105, Exhibit No. 168.]

WITNESS—I have not got the account here. It was opened in the name of C. J. Brydges, Receiver.

Mr. M. C. CAMERON.—It was opened in the first instance in the name of the Detroit and Milwaukee Railway Company, and the words "C. J. Brydges, Receiver," were entered in afterwards. I have no more questions to put to Mr. Rose.

The learned JUDGE (to the Jury)—We cannot finish the case to-night, gentlemen, and in adjourning until to-morrow, I would caution you not to hold any conversation, either among yourselves or with any body else, on the subject matter of this suit.

The Court then rose at half-past Eight o'clock.

TUESDAY, May 13, 1862.

The Court resumed at Nine o'clock this morning.

Hon. J. H. CAMERON—I want the defendants to produce the originals of this red book.

Mr. M. C. CAMERON—We have not got them.

Hon. J. H. CAMERON—But you must have them in your reports and letters. If you will not give them to us, we must make the investigation for ourselves. We will have, if you please, the Minutes for 1860 and 1861. The first desire to have is, that of the 27th of March; and while they are being found I will call Mr. Henderson.

Mr. Wm. K. HENDERSON called and examined by Hon. J. H. Cameron.

Q—You are Secretary to the Great Western Railway Company, I believe? A—I am Assistant Secretary.
Q—These sheets, bound up in the book before me, were sent out to Canada as a portion of the Minutes of the English Board? A—They were.

Mr. M. C. CAMERON—The English Board is not a legally constituted Board.

Hon. J. H. CAMERON—Did those of the 27th March come out as copies of their Minutes? A—They did.

Hon. J. H. CAMERON read the Minutes, as follows:—

"MINUTE OF ENGLISH BOARD OF 27th MARCH, 1861.

"Reply to Report of Committee:

"The Reply of the Board was then finally settled from the revised complete proof, and approved, and ordered to be signed, on behalf of the Board, by the President, and to be dated to-day.

"The Reply, with the Appendices & Copies of Correspondence with Messrs. Coleman, Turquand, Youngs & Co., & with Mr. H. H. Cannon, was ordered to be printed without delay, and as many copies as could be got ready to be posted on Saturday the 30th inst., and the remainder on Monday following."

Hon. J. H. CAMERON—Did you receive a copy of these [showing the witness some papers] from the Board in London? A—I was not Secretary at that time. Mr. Stephens was then the Secretary.

Mr. W. C. STEPHENS called and examined by Hon. J. H. Cameron.

Q—You were Secretary to the Great Western Company prior to Mr. Henderson, were you not? A—I was.

Q—Were you Secretary at the time the Report of the Investigating Committee was sent out from England? A—I was.

Q—Did you receive one or more copies from the English Board? A—We received a large number for distribution in this country.

Hon. J. H. CAMERON [handing witness the red book]—Was this what was sent out?

Mr. M. C. CAMERON—Wait a moment—Did you ever see the originals of that book?

Witness—I never did.

Mr. M. C. CAMERON—My learned friend has the means of proving what he wants; but he must take the proper steps to do so.

Hon. J. H. CAMERON—We are proving what we want. I read here a minute stating that these reports were to be printed, and that they were to be posted on a certain day.

Mr. M. C. CAMERON—The minutes of which you speak were sent out as copies. This gentleman does not know, nor does any other gentleman know, whether they were in point of fact correct copies.

Hon. J. H. CAMERON—We have Mr. Henderson's evidence that these papers were sent out as copies of the minutes of the London Board. They were so kept and acted upon here.

Mr. M. C. CAMERON—He says that copies were sent out; but he says nothing in regard to the originals.

Hon. J. H. CAMERON—These are the very papers which came from England; and for anything we know to the contrary, they may be the originals.

Mr. M. C. CAMERON—This is not a public body; it is a private corporation; therefore its proceedings are not to be taken as public documents. All these witnesses can say is that they have received certain papers purporting to be copies of minutes, and further than that they know nothing.

The learned JUDGE—If the question were asked, if these minutes were received here for the purpose of being acted upon by the Canadian Board of Directors, and it was said that they were received and acted upon as such, I think it would be good evidence.

Mr. M. C. CAMERON—But what action was taken on them?

The learned JUDGE—I cannot tell; I do not know what they are going to prove.

Hon. J. H. CAMERON—I propose to go on and ask Mr. Stephens this question: These minutes having been received—

Mr. M. C. CAMERON—Your Lordship will have the kindness to note my objection.

The learned JUDGE—I will do so.

Hon. J. H. CAMERON—I intend to ask whether, when this gentleman was Secretary to the Great Western, there did not come, with his knowledge, to the Great Western Railway Company at Hamilton, a number of copies of this real report?

Witness—So far as I can recognise it. There were a number of reports, of a similar character to that, sent to Hamilton.

Q—And when you received these reports, did you not distribute them amongst the shareholders in this country? A—I did.

Q—I got one myself, and therefore I ought to know something about it. They were circulated as the report of the Company? A—As its report.

Mr. M. C. CAMERON—For the private information of these gentlemen?

Hon. J. H. CAMERON—It is our private money that you have got, and we want to get it back.

Mr. EGGLE—It is for the private information of the jury.

Mr. M. C. CAMERON—It is that we want the private letters of your witnesses, and you will not let us have them.

Hon. J. H. CAMERON—You will not find us asking any gentleman belonging to the Great Western, questions about his private letters.

Mr. EGGLE—We do not ask such questions as “Did you own Bank stock?” (Laughter.)

Hon. J. H. CAMERON—I propose now, my Lord, to get this red book marked as a document received by the Great Western in Canada, and circulated amongst the shareholders and others here, as the report of the Directors on the investigating committee.

The learned JUDGE—You may put one in.

Hon. J. H. CAMERON—Mr. Stephens, I shall be obliged if you would refer to any minute which bears on the subject of this report, after 27th March, and during the time you were Secretary.

Witness pointed to several.

Hon. J. H. CAMERON—I wish your Lordship to note minute No. 1779, and a minute of the meeting on 10th November, 1857, [Appendix, 38, p. 25]. Also a letter of the London Board, of 8th August, to Mr. Kirkman. I now want the annual report for the year 1861. [Mr. Irving produced it.] I desire your Lordship to likewise note the minute of 11th April, 1861. It is as follows:—

[Minute of 11th April, 1861. See Appendix, 207.]

Hon. J. H. CAMERON (to witness)—Were the various reports and statements made and adopted at that meeting, laid before the shareholders at their meeting in Canada? A—They were.

Hon. J. H. CAMERON—The meeting in England was held on 11th April, 1861, and the date of the meeting in Canada, at which these various documents were laid before the shareholders here, was 17th May, 1861. I see by the Minutes—“The report of the committee of investigation, and the reply of the Directors thereto were taken as read.”

Mr. M. C. CAMERON (to witness)—That is to say, copies were read?

Witness—No; the cover only was read.

The learned JUDGE—I suppose they were read in the same way as Parliamentary proceedings are read. In Parliament, the titles only of Bills are read.

Mr. BECHER—What does the tin box say?

Hon. J. H. CAMERON (taking some papers from a tin box)—The tin box says this: It was moved that the report of the committee of investigation be received; and, in amendment, it was moved that it be not received. The tin box says that the amendment was lost, and that the original motion was carried. Mr. Becher held up two hands, my Lord, and Mr. Brydges held up two hands, and between them they carried it. (Laughter.) I want now the minutes of the meetings of the shareholders relating to the £150,000 and £100,000.

Mr. IRVING—The confirmatory meeting as to the £150,000 was held on the 2nd November, 1857.

Hon. J. H. CAMERON (to witness)—Be good enough to read the resolution of the 2nd November.

Witness read it as follows:—

[See Appendix, p. 3, Exhibit No. 1.]

Hon. J. H. CAMERON—I now want the instructions to communicate the information about those two loans from the English Board to the Board at Hamilton.

Mr. IRVING—Turn to the minute, No. 1069, of the English Board, on the 10th November, 1857.

Witness did so, and read as follows:—

[See Appendix, p. 25, No. 28.]

Hon. J. H. CAMERON then put in several papers to be marked and filed.

Mr. M. C. CAMERON (to witness)—For what length of time had you been Secretary to the Great Western Railway? A—Seven years.

Q—And you generally attended the Board Meetings of the Great Western in this country? A—Always, unless prevented by indisposition or temporary absence.

Q—Are you aware of anything being brought before that Board having reference to the Commercial Bank and the Great Western Railway? A—I do not remember when the subject was first mentioned at the Board. Neither do I recollect the circumstance of its being mentioned at the Board.

Q—Do you remember an application being made by the Bank for Great Western Railway bonds? A—It was not from the Bank, I believe. But I think there was an application of that nature from one of the Directors.

Q—Do you remember who that Director was? A—I do not.

Q—Cannot you turn to the minutes so as to ascertain? A—It would be entered in the proceedings of the Finance Committee probably. Yes; in the record of the proceedings of the Finance Committee on the 28th May, 1859, I find this minute:—

[See Appendix, p. 35, No. 45.]

Q—Was it ever discussed in any shape or way before the Board that the Great Western Railway were liable for this debt of the Detroit and Milwaukee to the Commercial Bank? A—No.

Mr. EGGLE—Stop before you answer that question.

Mr. M. C. CAMERON—But he has answered it. (Laughter.)

The learned JUDGE—The minute speaks of it.

Mr. M. C. CAMERON—The minute shows that it was not so.

The learned JUDGE—That is susceptible of argument from both sides. We can afterwards hear arguments as to what that minute means.

Mr. M. C. CAMERON (to witness)—Was there anything of the kind brought before the Board previous to this meeting? A—Nothing that I am aware of.

Q—You have nothing to do with the financial affairs of the Company, I believe? A—I have no control over them.

Q—Have you ever had any communication with Mr. Park in reference to the debt of the Detroit and Milwaukee Company? A—In conversation with him, the subject has been many times referred to.

Q—In what way? Was it claimed by him as a debt against the Great Western? A—It was never

mentioned by Mr. Park as being a debt against the Great Western. It was an amount which he hoped—and I concurred with him in the hope—would be ultimately provided for. We were from the very first hoping that the Great Western would make larger advances than they did make to complete the line.

Q—He hoped it would be provided for in what manner? A—He did not say. He simply remarked, he hoped it would ultimately be arranged.

Q—Was it supposed that anything was to be done in England before the advances were made? A—No.

Q—You do not understand my question. I ask you if it was supposed to be necessary that anything should be done in England before the advances could be made? A—I beg your pardon. I did not understand you.

Q—Did you not talk about what was necessary to be done before the advance beyond the £100,000 could be made? A—We referred occasionally to the subject of getting other loans from the Great Western.

Q—Did you have any conversation as to the manner in which these loans were to be obtained? A—We referred to the necessity of their being previously sanctioned by the shareholders.

Q—And Mr. Park fully understood that the vote of the shareholders was necessary before the Great Western could lend their monies? A—So I should infer from the conversations.

Q—When did you first become aware that the Commercial Bank expected that their claim against the Detroit and Milwaukee should be protected by the Great Western? A—On receipt of the letter from Mr. Ross in September or October, 1859.

Mr. M. C. CAMERON—Please to read that letter. I think it is dated 28th October, 1859.

Hon. J. H. CAMERON—It was put in yesterday.

Mr. M. C. CAMERON (to witness)—Do you recollect having any conversation with Mr. Park in reference to a third loan? A—It was at one time imagined that a third loan might be advanced by the Company, and this was referred to in conversation between myself and Mr. Park. We hoped that a third loan might be obtained, though we agreed that for the present it could hardly be expected.

Mr. ECCLES—We contend that this report of a conversation between Mr. Stephens and Mr. Park is not in any way evidence against the Bank.

Mr. M. C. CAMERON—Of course, Mr. Park could not bind the Bank!

Mr. ECCLES—Casual conversations take place between officers of the Bank and of the Company, of which we know nothing; and conversations which are not of the *res gestæ* ought not to be received.

The learned JUDGE—I think it would be better to have simply the facts on both sides.

Mr. ECCLES—It is the facts we want, and not conversation.

The learned JUDGE—It is only the fact of a conversation which is here wanted, and not the conversation itself.

Mr. M. C. CAMERON (to witness)—Is not this a letter which was written to you (showing witness a letter)? A—It is.

Mr. M. C. CAMERON read it as follows:—

[See Appendix 144, page 92.]

Mr. M. C. CAMERON—That letter was in reply to a letter from you, which I will thank you to read.

Witness read the letter as follows:—

[See Appendix 143, page 90.]

Mr. M. C. CAMERON (to witness)—Allow me to ask you if the Wyandotte Rolling Mill transaction was not a Great Western matter proper? A—It was.

Hon. J. H. CAMERON—And had nothing to do with the Detroit and Milwaukee?

Witness—Nothing whatever.

Mr. M. C. CAMERON—Was there not a letter of the 18th October?

Witness—Yes; I will read it:—

[See letter of 18th October, Appendix 205.]

Mr. M. C. CAMERON—Then there was a letter from Mr. Ross, on the 19th, in reply. But as it is only

on the subject of the Rolling Mills, there is, perhaps, no necessity for reading it. (To witness)—Have you a minute of the Board as to the manner in which cheques were to be signed by the Great Western Railway Company's officers? A—I am not aware of there being a minute on the subject.

Q—Have you had any communication with Mr. Park as to the manner in which cheques were to be signed? A—I mentioned to Mr. Park, when the account was opened, the manner in which our cheques were drawn.

Q—Did you do it verbally, or in writing? A—I am not clear on that point. I think it was done in writing; because I imagine that I should give him a copy of the cheque, with the signatures of the directors attached.

Q—Have you had communications with Mr. Park at different times, when you have varied the manner in which the cheques were usually signed? A—I always notified him by letter of the absence of any of the parties authorized to sign the cheques.

Mr. M. C. CAMERON—We want the letter of the 7th September, 1857, from Mr. Stephens to Mr. Park. It was produced, and read:—

"GREAT WESTERN RAILWAY,
HAMILTON, CANADA WEST, Sept. 7th, 1857.

"W. H. PARK, Esq.,
Manager Commercial Bank.

"DEAR SIR,—During the temporary absence of Mr. Thos. Muir, the Accountant, the Board has instructed Mr. Joseph Fray, whose signature is appended to countersign cheques, pro Accountant.

"Yours faithfully,

"W. C. STEPHENS,
Secretary.

"JOSEPH FRAY,
pro Accountant."

Mr. M. C. CAMERON—Have you the letter of the 26th February, 1858, in reference to the cheque the Accountant's signature was not attached to?

It was produced, and read:—

"GREAT WESTERN RAILWAY,
HAMILTON, CANADA WEST, 26th February, 1858.

"W. H. PARK, Esq.,
Manager Commercial Bank of Canada.

"DEAR SIR,—Cheque No. 1617, dated 22nd, in favor of H. O. R. Beecher, has been improperly issued, without the countersignature of the Accountant. When presented, please be good enough to pay it, and we will have it properly countersigned after wards.

"Yours faithfully,

"W. C. STEPHENS,
Secretary."

Mr. M. C. CAMERON—Will you now look for one of the 30th March, 1858, from Mr. Stephens? It was produced and read:

"GREAT WESTERN RAILWAY,
HAMILTON, CANADA WEST, 30th March, 1858.

"W. H. PARK, Esq.,
Manager Commercial Bank of Canada.

"DEAR SIR,—During the temporary absence of Mr. T. Muir, accountant, cheques will be countersigned by Mr. J. Fray, pro. accountant, whose signature is at foot.

"Yours respectfully,

"W. C. STEPHENS,
Secretary."

"Signature of Mr. Fray: J.
"JOSEPH FRAY."

Mr. M. C. CAMERON—I now want one of the 3rd April, 1858.

It was produced and read :

"GREAT WESTERN RAILWAY,
"HAMILTON, CANADA WEST, 3rd April, 1858.

"W. H. PARK, Esq.,
"Manager Commercial Bank.

"DEAR SIR,—Mr. Fray, our book-keeper, who was authorized to countersign cheques in the absence of the accountant, being indisposed, the cheques will for the present be countersigned as entered by J. H. Watson, whose signature is below.

"Yours faithfully,

"W. C. STEPHENS,
"Secretary.

"Signature of Mr. Watson:
"J. H. WATSON."

Mr. M. C. CAMERON—Be good enough to give me one of the 18th June, 1858.

It was produced and read :

"GREAT WESTERN RAILWAY,
"HAMILTON, CANADA WEST, 18th June, 1858.

"W. H. PARK, Esq.,
"Manager Commercial Bank.

"DEAR SIR,—As I am about to be absent from Hamilton for a short time, I am instructed by the Directors to request that until my return you will be good enough to honor the cheques of this Company, on the counter-signature of Mr. W. K. Henderson, 'pro Secretary,' whose signature is at foot.

"Be good enough to advise your different Branches of this authority.

"I am, dear Sir, yours faithfully,

"W. C. STEPHENS,
"Secretary.

"W. KNAPP HENDERSON."

Mr. M. C. CAMERON—Now look for one of the 18th February, 1859.

It was produced and read :

"GREAT WESTERN RAILWAY,
"HAMILTON, CANADA WEST, 18th February, 1859.

"W. H. PARK, Esq.,
"Manager Commercial Bank.

"DEAR SIR,—As I am about to be absent from Hamilton for a week or so, I am instructed by the Directors to request that you will honor the countersignature of Mr. W. K. Henderson to the Co.'s cheques, until my return.

"Yours faithfully,

"W. C. STEPHENS,
"Secretary."

Mr. M. C. CAMERON—Another of July 20th, 1859.

It was produced, and read :

"GREAT WESTERN RAILWAY,
"HAMILTON, CANADA WEST, 20th July, 1859.

"W. H. PARK, Esq.,
"Manager Commercial Bank.

"DEAR SIR,—I am about to leave Hamilton for a few weeks, and I am instructed by the Directors to request that you will honor the countersignature of Mr. W. K. Henderson to the Co.'s cheques, during my absence.

"I am, dear Sir,

"Yours faithfully,

"W. C. STEPHENS,
"Secretary."

Mr. M. C. CAMERON (to witness)—To these cheques, in addition to the signatures of the Secretary and Accountant, what other signatures were appended? A.—The signatures of any two Directors who were members of the Finance Committee. At one time some of the members of the Board were not on the Finance Committee; but lately they have all been members of both.

Q—Look at that (handing witness a cheque), and say if that is a Great Western Railway cheque? A—It is. App'x (180) page 112.

Q—And is that the kind which was used during the many years you were the Secretary? A—Yes; there are the same kind of signatures attached.

Mr. M. C. CAMERON—The jury will observe that there are four signatures to each cheque. (Handing another kind of cheque to witness)—Is that one of the cheques of the Great Western Railway Company? A—It is not.

Mr. M. C. CAMERON—And that is one of the cheques on which a great part of this money was drawn (Shewing more cheques to the witness)—Are these the cheques of the Great Western Railway Company? A—No. App'x (178) page 110.

Mr. M. C. CAMERON—That is another kind of cheque. They are made out entirely in the name of the Detroit and Milwaukee Railway Company, and are signed by the officers of the company. (To witness)—Have you a practice at the Board of inspecting the Bank pass-book? A.—The Bank pass-book is laid on the table of the finance committee at each meeting.

Q—And how often do they meet? A—Perhaps once a fortnight.

Q—Had you ever placed on the table before you the pass-book of the Detroit and Milwaukee Railway Company? A—No.

Q—Only the pass-book shewing the money transactions of the Bank with the Great Western Railway was placed on the table? A—Yes.

Q—Look at this book (handing witness a pass-book), and say if this is one of the Great Western pass-books? A—It is; and it was always placed on the table of the finance committee.

Q—Is there not also an examination by that committee of the cheque-book? A—Yes; of the book from which cheques are drawn. The book is brought in with the cheques, and the Directors sign them there.

Q—This was the other pass-book of the Great Western Railway (handing witness another pass-book), was it not? A—It was.

Q—When the pass-book is laid on the table, in the way you speak of, is there any examination of the balances made? A—Yes.

Q—And any examination of the cheques which have not been presented? A—These are out. There is a list made for each meeting of the committee, shewing the state of the Bank balances, and setting forth the outstanding cheques. These are compared with the cheques which have been paid. And it is seen that the Bank account and the cash-book agree.

Q—The Detroit and Milwaukee Company have not been amalgamated in any manner with the Great Western, have they? A—No; they are a distinct company.

Q—Are you an officer of the Detroit and Milwaukee Railway Company? A—I am an officer of the Detroit and Milwaukee "Railroad" Company, that is, the new Company having its head-quarters at Detroit.

Q—You sent a reply dated 2nd November, 1859, to the letter of Mr. Ross, of the 28th October. The letter of the 2nd November was, I believe, to this effect:—

[See letter of 2nd November, Appendix 146, page 94.]

WITNESS—Yes; I wrote that letter.

Mr. M. C. CAMERON—Turn to the English Board minutes of the 22nd June, 1858, 27th July, 1858, and 12th October, 1858.

WITNESS—The minute of the 22nd June, 1858, has reference to the Detroit and Milwaukee loan. It is as follows:

[See Minute of 22nd June, Appendix 36, page 30.]

Mr. M. C. CAMERON—Now read that of the 27th July, 1858, No. 2046?

WITNESS read it as follows:

[See Minute of 27th July, 1858, Appendix 37, page 31.]

Mr. M. C. CAMERON—Read next the minute of 12th October, 1858, No. 2094?

WITNESS did so, as follows:

[See Minute of 12th October, 1858, Appendix 38, page 32.]

Mr. M. C. CAMERON—Refer now to the one of March 10th, 1858, No. 1885?

WITNESS read it, as follows:

[See Minute of March 10, 1858, Appendix 34, page 30.]

A JURTMAN (referring to one of the books)—Is that called Bank Account No. 2?

Hon. J. H. CAMERON—Yes.

Mr. M. C. CAMERON—It is what they call No. 2; but what we call the Detroit and Milwaukee Account.

Mr. M. C. CAMERON (to witness)—Was there ever any proceeding before the Board in England of this country which authorised Messrs. Brydges and Reynolds to open an account with the Commercial Bank?

Hon. J. H. CAMERON—Do you forget the resolution giving them full discretionary power?

Mr. M. C. CAMERON—That resolution did not give them discretionary power. It expressly confined them to a particular purpose.

Hon. J. H. CAMERON—You will see by-and-by. (To witness)—Have you the account of the Great Western with the Detroit and Milwaukee? A.—I have not.

[Mr. Henderson left the Court to get it.]

Q.—Did you communicate any of the contents of the letters which you have just read, to Mr. Park or any one else connected with the Commercial Bank? A.—No; I never communicated outside the board-room the subjects referred to therein.

Q.—Did you communicate these letters, or the substance of these letters, to anybody belonging to the Bank? A.—No; certainly not. I should not think of mentioning such a subject.

Q.—Is not the office of the Detroit and Milwaukee Company at Hamilton in the Great Western Railway Company's office? A.—Yes; the President's office is the same.

Q.—Was it not in the same room that the President did his business for the Detroit and Milwaukee, and the Managing Director did his business for the Great Western? A.—No; there was another office in Hamilton, altogether distinct, for the Detroit and Milwaukee Company.

Mr. IRVING—And letters were written backwards and forwards?

Hon. J. H. CAMERON—To be sure, there were lots of letters.

Mr. M. C. CAMERON—The offices of the Company were in Detroit, and the President and Vice-President had theirs at Hamilton.

Hon. J. H. CAMERON (to witness)—Is this person, Edmund Joy, in your office? A.—He is the messenger who takes the Bank books from the office.

Q.—And who was Matthew Harvey? A.—He was also a porter.

Q.—There was another Joy. Who is he? A.—They are all porters and messengers. I do not know their signatures.

Q.—When the advances were made from time to time from the Great Western to the Detroit and Milwaukee, were they never mentioned to the Board by the Finance Committee? For instance, Messrs. Brydges and Reynolds draw a bill for, say, £6,000 on the London Board, for the purposes of the Detroit and Milwaukee Railway. Was that never mentioned at your Board? A.—I am not sure.

Q.—You said just now that the Great Western had nothing whatever to do with the Detroit and Milwaukee Railway. Now, I ask, if these drafts were not in some way brought before the Finance Committee of the Great Western? A.—I can only tell you by a reference to the proceedings of that Committee.

Q.—Look at the minutes of the Finance Committee of the Great Western on the 18th February, 1858, when the first bill for £10,000 sterling was drawn. I want to know how that was brought before the Finance Committee.

WITNESS turned to the book.

Hon. J. H. CAMERON then read minute of 2nd April, 1859, No. 978. (To witness)—Do you find any App's minutes of the Finance Committee on the 1st February, 1858, in reference to this draft of £8,000? A.—I do not. ⁽⁴¹⁾ page 22.

Q.—Do you find any minute of the Finance Committee on the 15th March, 1858, having reference to the bill of £15,000? A.—There is no such minute.

Q.—Is there anything about a draft for £16,750 sterling, on the 29th March? A.—There is not.

Q.—Is there a minute on the 1st May, 1858, in regard to £6,500 sterling, or a minute on the 31st May, 1858, relating to £13,250 sterling? Is either of these bills entered on the Finance Committee's minutes? A.—Neither is entered.

Q.—Nor of the £4,000 sterling, on the 3rd July, 1858? A.—No.

Q.—On the 16th September, 1858, there was a deposit by the Great Western Railway Company of \$40,000. Is there any mention of that in the Finance Committee's minutes? A.—It is placed to the credit of the Detroit and Milwaukee account.

Q.—Is there a minute of the 14th September, of a deposit to the credit of the Great Western Railway of £10,000? A.—No.

Q.—Or a minute of a draft on the London Board of £20,000 sterling, on the 29th November, 1858? A.—No.

Q.—Is there any minute of £10,000 sterling on the 30th September, 1858? A.—No.

Mr. M. C. CAMERON.—You will find the entries in regard to the sterling exchange in the English Minutes, but you will not find them in the Canadian Minutes.

Hon. J. H. CAMERON.—(to witness)—Turn to the Finance Committee's Minutes of the 19th January, 1859, and see what authority exists for giving the Bond of the Great Western Railway for \$100,000? A.—There was no meeting of the Finance Committee on that day.

Q.—Look at the Minutes of February. It was sometime about that date? A.—On the 25th February, I find the following entry: ^{App's (41), page 33.}

Q.—You find on the 25th February the President informing the Board that this Bond has been issued. It was received and carried to their credit by us on the 18th February, several days before. The Board Minutes confirmatory of this transaction must be subsequent to that? A.—Probably the same date.

Q.—Look and see what authority was given in regard to any bonds in May, 1859? A.—I read as follows: [See Minutes of 27th Aug., 1859, Appendix 45, page 35.]

Q.—Is that a minute of the Committee of the Board? A.—It is a minute of the Committee.

Q.—Give us the minute of the Board? A.—The only reference I find to the matter in the Board Minutes is on the 3rd June following, where it is said that the Minutes of the Finance Committee on the 28th May, were read and adopted.

Q.—Are the accounts here between the Great Western and the Detroit and Milwaukee?

Mr. M. C. CAMERON.—They are in England.

Hon. J. H. CAMERON.—And you have no way of getting at them, I suppose? Are there no copies of them? A.—I am not aware that there are.

Q.—Have you the minutes of the English Board on the 27th August, 1856? A.—Yes; and I read from them as follows:—

[See Minute of 27th August, 1856, Appendix 16, page 15.]

Mr. M. C. CAMERON.—I see now where you get your ideas from.

Hon. J. H. CAMERON.—And it is not a bad place either to take them from the London Joint Stock Bank.

Mr. M. C. CAMERON.—They are your bankers. But you will find that the transaction is nothing like what it is represented to be. (To witness)—Do you know the nature of the account kept at the London Joint Stock Bank? A.—I do not.

Q.—Are you aware whether there was any exchange drawn on England by any officer of the Board in this country which was repudiated? A.—There was.

Q—And that had reference to a railway undertaking also? A—Yes; it had reference to the Southern Road.

Hon. J. H. CAMERON (to witness)—Who drew that exchange? A—Mr. Radcliff, the Vice-President.

Q—Mr. Brydges, I think, was in possession? A—He was.

Mr. M. C. CAMERON (to witness)—Who had these bills? A—The Commercial Bank had part of them. They knew all about the repudiation.

Mr. THOMAS MUIR, called and examined by Hon. J. H. Cameron.

Q—You are Accountant of the Great Western Railway Company, I believe? A—I am.

Q—And the account of the Great Western Railway Company with the Detroit and Milwaukee is not here? A—I believe not.

Q—Is there a copy of it to which you can have access, or is there any way by which you can inform us of its contents from the commencement and down to the time the road was sold? A—Here is a brief synopsis of the loans.

Q—This account, for instance, refers to January, 1858. Does that shew the whole amount for January, 1858? A—For the half-year.

Q—But the account only began in December, 1857. Then it is impossible for you to say how the entries were made? A—No; I cannot tell.

Q—Have you nothing but this synopsis—no detailed statement of the manner in which the account appears in your books? A—I have no such statement.

Mr. M. C. CAMERON (to witness)—Look at these cheques (handing some cheques to the witness) and see if the sums therein mentioned were ever carried into the account of the Great Western against the Detroit and Milwaukee? A—I have never seen these cheques before. They were never dealt with in the Great Western Railway Company's books. They never came through my hands.

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Hon. J. H. CAMERON (to witness)—You said just now that you could tell me nothing about the details. Do you now say that none of those cheques appear in the account of the Great Western against the Detroit and Milwaukee Railway Company? A—They do not.

Q—Will you inform me if this report of \$40,000 appears in the account? A—I do not recollect the item. This is not a cheque of the Great Western Railway Company.

Mr. M. C. CAMERON (to witness)—Are the cheques of the Great Western entered in your books? A—They are.

Q—Then those cheques, if they belonged to the Great Western account, would have passed through your hands? A—They would.

Mr. EECLES (to witness)—And you say you don't keep a Milwaukee account? A—We do not.

Mr. A. J. MACDONELL called; and examined by Mr. Eccles.

Q—I believe you were one of the Directors of the Commercial Bank of Canada, for the year 1857? A—I was.

Q—Had you, as such Director, any knowledge of an account being opened with your Bank in regard to the Detroit and Milwaukee Railway? A—A proposition to open an account was submitted to the Board.

Mr. M. C. CAMERON—A proposition to open what account? A—An account with the Great Western Railway on behalf of the Detroit and Milwaukee. That was after Mr. Ross had been to Toronto to meet Mr. Reynolds.

Mr. EECLES—Was there a minute made of the application? A—I think there was.

Mr. M. C. CAMERON—Mr. Ross says that he was unable to find it. You had better see what kind of luck yours is.

Mr. EECLES (to witness)—There was no minute made of it. But you appear to have a recollection of the Board meeting on the subject. Now, what was represented by Mr. Ross at that meeting as the substance of the agreement made between him and Mr. Reynolds?

Mr. M. C. CAMERON—I submit that the witness should not state what was represented verbally, when it was thought not to have been of sufficient importance to make a minute of.

The learned JUDGE—If there was no minute made, we can have, I suppose, the next best evidence.

Mr. EECLES (to witness)—What was said by Mr. Ross at that meeting? A—Mr. Ross went to Toronto to meet Mr. Reynolds, as I understood from him, in reference to the opening of a credit.

Q—And after he returned, what transpired? A—It is Mr. Ross' practice to mention to the Board anything of importance which takes place, and I have no doubt he did so on this occasion.

Q—How often does the Board meet? A—Once a week. It was at one of the ordinary meetings that that representation was made.

Q—To whom did he say the credit was to be given? A—To the Great Western Railway Company, undoubtedly.

Mr. M. C. CAMERON—Surely, this cannot be given in evidence.

Mr. EECLES—State your objection, and his Lordship will rule.

The learned JUDGE—I do not want to know what may have been represented, but what was actually said.

Mr. EECLES—It was said that the credit was to be given to the Great Western.

WITNESS—That was my understanding, decidedly.

Mr. EECLES (to witness)—And was it the understanding of the Board? A—I am perfectly well convinced that the Board would never have consented to advance a farthing to the Detroit and Milwaukee. I would not, and I am persuaded no other director would. I never heard of its being asked.

Q—I see you were present at a meeting of the Board, at which there was a minute passed, on the 1st April, 1858? A—Yes, I was present at that meeting.

Mr. EECLES—That minute speaks for itself. An open credit of \$100,000 is asked for on the Detroit and Milwaukee account. And all that is in writing.

Mr. M. C. CAMERON (to witness)—You speak of this conversation having taken place immediately after Mr. Ross's return? A—Mr. Ross went to Toronto, and when he came back he made a verbal report.

Q—But I find that Mr. Macdonnell was not present at that meeting of the Board? A—It was at a meeting about that time, I am certain. Sometimes I am not present at the Board meetings; but I have conversations with Mr. Ross on the affairs of the Bank almost daily.

Q—Have you any very distinct recollection of this matter being discussed when Mr. Ross returned. A—There were so many things submitted, that I cannot remember it very distinctly.

Q—And when was it for the first time called to your mind subsequently? A—It was called to my mind very frequently. I do not know when first it was called to my mind.

Q—Perhaps it would not be for two years afterwards? A—I must have considered it immediately afterwards, because within two or three months a further demand was made upon the Bank by the Company.

Q—What did Mr. Ross say on his return from Toronto? A—Mr. Ross communicated to the Board, as was his invariable practice when anything of importance took place, the result of the interview which was specially sought for with the chief officer of the Bank.

Q—You say that it was a matter of importance. If so, how was it that it was not entered on the minutes of the Bank? A—I believe nothing was definitely settled at that meeting.

Q—I should like to have a report of what was said? A—I recollect Mr. Ross saying that he had had a meeting with this gentleman at Toronto, as had been asked for, and that there was a discussion about the opening of the account. I do not think the terms were definitely settled; but very much, I believe, was left to the discretion of the managers of the Bank.

Q—Then it was not a matter of sufficient importance for the Board to make a minute of? A—I suppose the reason was, that the details were not arranged.

Q—I presume that the mere opening of an account with a company, would not be a matter of any importance—that the cashier has authority to open a deposit account? A—The cashier has authority to open a deposit account, because that involves no risk to the Bank.

Q—I suppose you have gone over these minutes since? A—I have seen them at various times; and I have also had conversations on the subject with the officers of the Bank.

Q—You have had conversations with Mr. Ross, I dare say; and he has told you what were the representations he then made? A—Very likely.

Q—How often did Mr. Ross go to Toronto, during that year? A—I think he went several times. Q—Did he go to Toronto on the subject of the Great Western, when that account was first opened? A—I am quite certain.

Q—This is a very important matter, and you do not recollect anything about it. A—I remember about the opening of the account.

Q—Did Mr. Ross go to Toronto to see the Great Western people about the Great Western account proper, or was it done by correspondence? A—I recollect perfectly well that the opening of the Great Western account proper was arranged by correspondence; and I remember also his telling me that he was going to Toronto about the Detroit and Milwaukee, because the Great Western gentlemen sought an interview.

Q—You are one of the Counsel retained in this case? A—I am; but I hope you do not think that makes any difference in regard to my evidence, Mr. Cameron.

Mr. M. CAMERON—Oh no, certainly not. If I wished to insinuate anything, I should call to mind that your other interest as a Director is greater than your interest as one of the Counsel.

Mr. FREDERICK CHESWELL called, and examined by Hon. J. H. Cameron.

Q—Look at the receipts for cheques and vouchers, and tell me whose handwriting they are in? A—I recognize the signatures of Michael Joy, Edmund Joy, and Matthew Harney, to the receipts produced for cheques and vouchers.

Q—Why did you give up these Detroit and Milwaukee cheques and vouchers to the Great Western Railway Company? A—If I remember right, there was a letter from Mr. Stephens or Mr. Muir authorizing the giving up of the cheques.

Mr. M. C. CAMERON (to witness)—What cheques? A—The cheques of the Great Western Railway on the D. & M. account.

Q—And will you say that the letter you received, contained a word about the D. & M. account? A—I cannot swear positively that it did.

Q—Have you the letter from Mr. Stephens, about the Detroit and Milwaukee cheques? A—I recollect the letter authorizing the giving up of the cheques.

Q—That is, the cheques of the Great Western Railway? A—I believe he mentioned the cheques of both companies.

Q—Have you the letter? It is an important matter that we should know what was really stated. Where is the letter? A—I suppose it is in the office.

Q—What is the practice in regard to the giving up of cheques? A—The practice is to give up cheques once a month to those whom they belong to, and who apply for them.

[For letter see Appendix 51, p. 42.]

Q—Here is a letter of the 12th August, 1857. Is that the letter you refer to? A—I do not think that the Detroit and Milwaukee account was opened in August, 1857.

Q—Here is a receipt of 26th September, 1857, signed by Edmund Joy. Is that the letter you refer to? It is as follows:

"Received all the vouchers of charges against the Great Western Railway Coy. account to this date—twenty-sixth September, 1857."

Per W. C. STARRATT, Secy.
"Edmund Joy."

Q—Is that the letter you refer to? A—I suppose it is.

Q—Did you receive a letter subsequently from Mr. Stephens? A—I cannot say. The reason why I say that they applied for the cheques of both Companies is that I do not think it possible that we should give cheques up without authority. I remember a letter being sent by Mr. Muir to give up the cheques, but I do not recollect whether or not he said the cheques of each Company.

Q—Then you will not repeat what you said in the first instance, that the cheques of the Detroit and Milwaukee Company were included in the arrangement? A—I believe they were included, because I do not believe we should have given them up without a proper order.

Q—But supposing you had received an order from Messrs Brydges and Reynolds, requesting you to give up their cheques, you would have given them up? A—Yes.

Mr. ECCLES—(to witness)—But you would not have given them up unless you received an order? A—No; we should not have given them up without an order.

Mr. M. C. CAMERON (to witness)—How long have you been in the Bank? A—Since March, 1853.

M—And are you still in the Bank? A—I am.

Mr. ECCLES (to Mr. M. C. Cameron)—You admit these letters of Mr. Reynolds?

Mr. M. C. CAMERON—Yes.

Mr. M. W. Strange called, and examined by Mr. Eccles.

Q—Were you present at the Board meeting in Kingston, when Mr. Ross returned from Toronto, and the subject of opening an account with the Detroit and Milwaukee road was spoken of? A—I cannot tax my memory to fix the exact date, but I know that at one of the meetings there was a conversation about opening an account.

Mr. ECCLES—From what you understood—

Mr. M. C. CAMERON—Come now, Mr. Eccles, that will not do. What he understood!

Mr. ECCLES—Very well; make your objection to the court. I shall go on until his Lordship tells me to stop. The learned JUDGE—I have not heard the question.

Mr. M. C. CAMERON—He asks him as to his understanding in the matter.

The learned JUDGE—Pray do let us get on. What is the use of wasting time in this manner?

Mr. M. C. CAMERON—Will your Lordship please to note that I take exception to this kind of evidence? It is merely a conversation with Mr. Ross that the witness is asked to speak of.

Mr. ECCLES—It is no such thing; it is what Mr. Ross reported to the Board.

The learned JUDGE (to witness)—Please tell us, as a bank director, what the Bank actually sanctioned. A—We sanctioned a loan, as I supposed, to the Great Western Road.

Mr. M. C. CAMERON—It could not have been at the first meeting, because at that meeting there was nothing further done than relates to the opening of the account.

Mr. ECCLES (to witness)—What did Mr. Ross represent, and what did the Board approve of at that meeting? A—I cannot remember exactly; but we understood that Mr. Ross had been up to meet some of these gentlemen about taking away their account from the Bank of Upper Canada. That was in the beginning of August, 1857.

Q—We will come down, if you please, to December, 1857? A—I cannot tax my memory exactly as to what was said.

Q—Did you ever on any occasion sanction the opening of an account with the Detroit and Milwaukee road. A—Certainly not.

Q—Or give them credit? A—Certainly not.

Mr. M. C. CAMERON—That will do, Mr. Strange.

Dr. T. W. Robertson called and examined by Mr. Eccles.

Q—You were a member of the Bank Board in 1857 and 1858, were you not? A—I was.

Q—Did you ever sanction any transactions between the Bank and the Detroit and Milwaukee Road? A—I never would have thought of such a thing.

Q—Did you ever hear of anything of the kind? A—There was an application made, but it was refused. An account was opened with the Great Western on behalf of the Detroit and Milwaukee Railway.

Mr. M. C. CAMERON (to witness)—When did you first hear about it? A—I heard of it at a meeting of the Board, held, I think, on the 1st April. That was the time that the application was made.

Q—I can show you that there was nothing said about opening an account on behalf of the Detroit and

Milwaukee at that time. You are very positive about the application for a credit to the Detroit and Milwaukee being refused? A—Certainly I am.

Q—Was it refused at the time you speak of? A—I do not recollect. The matter was discussed many times.

Q—I believe your Bank has been paying a good dividend? Q—I believe it pays about eight per cent.

Mr. M. C. CAMANOR—I am glad to hear that it is in such a flourishing condition.

Mr. ECKLES—The stock has gone up three per cent. since yesterday morning; and when we get a verdict it will go up ten per cent. more. (Laughter.)

Mr. William Gray called, and examined by Mr. Eckles.

Q—You are Solicitor, are you not, in Detroit, for the Great Western Railway Company? A—I am.

Q—When did you first become their Solicitor? A—I think it was six or seven years ago. Soon after the road was opened.

Q—Do you remember a sale of the Detroit and Milwaukee Railway taking place under a decree in regard to a mortgage issued by the Court of the State of Michigan? A—I do.

Q—Did you become the purchaser? A—Mr. Reynolds and myself bought in the road at the sale.

Q—Was it a public auction? A—It was.

Q—Was there any competition? A—I think not. At all events, there was none of importance.

Q—How much did you bid? A—I think it was one million of dollars.

Q—Including the stock? A—The rolling stock was subject to a prior mortgage. There were two mortgages.

Q—And for whom did you and Mr. Reynolds purchase? A—We purchased in the interest of the trust—for the plaintiffs.

Q—Messrs. Brydges and Reynolds were the trustees, and they were the plaintiffs in the suit? A—They were.

Q—Then you purchased on behalf of those for whom they held the property in trust? A—We purchased for whoever would have been entitled to the money, if there had been money paid in to satisfy the judgment.

Q—Did you or did you not purchase for the Great Western Railway Company? A—I did not so understand it. I did not know that the Great Western Railway Company had any interest directly in the mortgage.

Q—Indirectly, then? A—I had always supposed up to this time that the Great Western had no interest in the road. I understood that they had not, as a corporation, advanced it any money. But that people interested in the Great Western had thought fit, on their individual responsibility, to make advances.

Q—Then you never heard of resolutions passed in England, authorising advances to be made out of the Great Western funds to the Detroit and Milwaukee Railway? I heard something about these resolutions. But when the mortgages were drawn, I remember having advised against making them directly between the two companies. I understood, however, that the Great Western Company used their influence to get the stockholders to take up the bonds issued of the Detroit and Milwaukee.

Q—There was some memorandum of agreement entered into between you, as representing the Railway, and Mr. Crooks as representing the Bank, I believe? A—I never represented the Railway.

Q—Then, as representing the trustees? A—Yes.

Q—Have you that memorandum with you? A—I have not.

Q—Where is it? A—I gave it to Mr. Crooks. I kept a duplicate, but the duplicate is not here.

Q—At any rate, whatever was the stipulation between you, as representing the plaintiffs, and Mr. Crooks, as representing the Commercial Bank, it is in writing and signed? A—It is.

Mr. M. C. CAMANOR (to witness)—And the Great Western Company do not own the Railway, after all? A—Not that I am aware of. I did not assume to represent the plaintiffs in this suit. I was simply retained as the solicitor to go on with the foreclosure of the mortgage.

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Q—Do you know if Mr. Campbell, as representing the Bank, assented to this arrangement? A—Oh yes. I had more than one interview with him, and the matter was discussed very freely.

Hon. J. H. CAMERON—I want the minutes of the shareholders' meeting of last year, in regard to the foreclosure of those mortgages.

The minutes were produced and read, as follows:—

"Detroit and Milwaukee Company."

"It was resolved—referring to the arrangements necessary to be made in consequence of the foreclosure of the Mortgage held by this Company on the Detroit and Milwaukee Railway."

"Resolved—That the loan of £250,000 sterling, with accrued interest, remain the 3rd mortgage upon the Detroit and Milwaukee Railway, carrying cumulative interest at the rate of ten per cent. per annum as agreed when the loan was first granted."

Hon. J. H. CAMERON—That, my Lord, is all the evidence we intend, for the present, to offer.

Mr. M. C. CAMERON.—I understand, my Lord, that the plaintiffs have closed, and I would submit that they have not made out any case to go to the jury. First, the papers which they have put in to establish their case show that the indebtedness, if any, arose in consequence of payments made upon certain cheques drawn by Messrs. Brydges and Reynolds, without any distinctive mark upon them to indicate that they were in any manner connected, with the defendants. From December 1857, to December 1858, and from that time until the close of the account in December 1859, the cheques are the cheques of the incorporated Company, signed by persons representing themselves to be the President, Vice-President, Accountant and Secretary, and having an engraved heading indicating that they belonged to the Detroit and Milwaukee Railway Company. The action is one arising upon an implied assumption, for money lent, and cannot be sustained by the evidence which has been given, the payments being all payments to third parties, and most of the cheques being drawn to Mr. Park, an officer of the Bank. At any rate, many of them are so drawn to him and to third parties. The action would not lie, then, if it were simply between persons, instead of being between corporations. On that head, secondly, the account which has been put in shows that all matters of money advanced during the year 1858 had been met by payments, application having been made by the Bank itself for the payments, according to the accounts so produced. Subsequently to that time, I contend that as a matter of law the claim would rest on the writing of the 16th December, 1858, which in law must be taken as guaranteeing an undertaking to answer for default of a debt to a third party; and being a guarantee, it must be sued on specially;—that no action could be maintained on that letter, first, because it is uncertain from the face of it whether it extends simply to past transactions, or extends to past transactions, and embraces future advances. If it extends to past transactions simply, it is void as an agreement between the parties, because there is no consideration expressed on the face of it, and that it is not sufficient to sustain a promise on. It is doubtful whether it applies to a past overdraft, as well as to future advances, it would be void, under authority of a case in 8 Adolphus and Ellis. I have treated thus far the instrument and the arrangement between the parties, simply as an arrangement between persons. I now say that this action cannot be maintained at all, because Messrs. Brydges and Reynolds had no power or authority to bind the Great Western Railway Company in a matter of this kind.

The learned JUDGE—You mean by this paper.

Mr. M. C. CAMERON—By this paper, and by the cheques.

The learned JUDGE—I presume that your objection to this paper is two-fold. You will say that it should be under the seal of the corporation.

Mr. M. C. CAMERON—I was dealing with these persons in the first place simply as ordinary persons. Now I raise the distinct and separate objection to their being made liable as a corporation.

The learned JUDGE—As I understand it, the objection to the paper is two-fold. First, that it cannot cover a past transaction, and next that it does not express sufficiency on the face of it.

Mr. M. C. CAMERON—Yes; there is a two-fold ground of objection. There is the objection, first, as to the informality of the document, and then there is this further answer to it, that if it applies to past transactions it has actually been satisfied and discharged. Then I say that those gentlemen could not bind the corporation, that is the defendants, by any instrument of this kind at all, even though under the formality of a seal. They had no power to borrow money on behalf of the Great Western for the purpose for which this money was obtained—that is for the purpose of the Detroit and Milwaukee Railway Company. The Great Western obtained—that is for the purpose of the Detroit and Milwaukee Railway Company only, under the Act 16th Vic, cap 99. The third section of that Act declares what their powers are in this respect. It reads thus:—

"III. And for the avoidance of doubt, be it declared and enacted that the said Company have had and shall have power and authority to borrow money from time to time for making, completing, maintaining and working the said Railroad as they might or may think advisable, and to pledge the lands, tolls, revenues and other property of the Company for the due payment thereof, and might and may make the Bonds or Debentures issued by them for securing the repayment of any sums so borrowed, or to be borrowed, convertible into stock of the said Company on the terms and conditions expressed or to be expressed in such Bonds or Debentures or in the By-Laws of the Company, and might and may insert in any Bonds or Debentures issued or to be issued by them such terms and conditions of any kind whatsoever as they might or may think most for the advantage of the said Company, and the same be not inconsistent with the Laws of this Province or with the express provisions of the Acts incorporating the Company or of the Acts amending the same."

I contend that this clause indicates that the only instrument by which this Company can be bound is a bond. In the next place, this Company could not be bound by an arrangement of the kind, the Act which authorizes the Great Western Railway Company to lend its funds to the Detroit and Milwaukee Company in no manner authorising borrowing. It simply allows a loan of its funds to take place, but it does not allow of borrowing for that purpose. It speaks of the funds of the Company as though it were to have the funds in hand before it could enter into arrangements to make advances. That will apply whether this instrument in writing is considered in the nature of an acknowledgment or in the nature of a guarantee.

The learned JUDGE—It would apply to the whole account.

Mr. M. C. CAMERON—Yes; it would apply to the whole account. I will read to your Lordship the clause I have reference to. It is the 11th section of the Act 22 Vic, cap. 116, and reads as follows:—

"11. And whereas the Great Western Railway Company, in order to form connections with Railways in the United States of America, has to lay down its rails out of the Provinces of Canada; and to provide facilities at Stations and otherwise for consolidating its traffic: Therefore the Great Western Railway Company shall have full power and authority to use its funds by way of loan or otherwise in providing proper connections, and in promoting its traffic with Railways in the United States of North America, provided that no such expenditure shall be incurred unless sanctioned by a vote to that end of two-thirds of the shareholders, and in promoting its traffic with Railways in the United States of North America, provided that no such expenditure shall be incurred unless sanctioned by a vote to that end of two-thirds of the shareholders: Provided always, that the power hereby granted shall not be construed so as to prevent any other Railway Company from using its funds in providing the same connections, and promoting its traffic with Railways in the said United States: And Provided also, that whenever any other Railway Company shall desire to make such connections, the said Great Western Railway Company shall be bound to assent to the same on equitable and reasonable terms: And Provided further, that the Loan of seven hundred and fifty thousand dollars already made by the said Company to the Detroit and Milwaukee Railway Company, is hereby declared to be lawful."

Now it has not at all been established, but the contrary has been shown, that no meeting of the shareholders was held to authorize any further loan than the two loans—one of £100,000, the other of £150,000. But whether any such further loan was authorized by the shareholders to be granted to Messrs. Brydges and Reynolds or not, they would have no power to enter into arrangements with the Bank, for, as it has been contended, an unlimited credit, to the prejudice of the shareholders. As to the want of power on the part of a corporation of this kind to deal with other railways, I would refer your Lordship to the case of the Great

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Western Railway Company and the Preston and Berlin Railway, in the Bank of Upper Canada Queen's Bench Reports, 477.

The learned JUDGE—I recollect the case very well.

MR. M. C. CAMERON—Your Lordship is aware that in the case the Great Western had entered into an arrangement with the Preston and Berlin Railway, under the seal of the two companies, for the purpose of completing certain improvements on the latter line, and for working it; and afterwards a claim was made for repayment of the advances made by them. The Chief Justice, in giving judgment in the case, said:

"In the absence of any power given to the plaintiffs to construct a railway between Preston and Berlin, they could not legally employ the funds of the shareholders in applying labour and materials to that line of railway, any more than they could to making a railway, or a canal, or turnpike road, in any other part of the country. And this being so, the plaintiffs cannot, in our opinion, enforce payment by the defendants for the work so done; first, because it is contrary to the general policy of the law, and inconsistent with the protection due to the shareholders in the Great Western Railway, that the Directors should apply the powers of their charter to, and expend the funds of the Company on, an object not within the scope of their charter; and, secondly, because the plaintiffs have not the privilege of suing in a corporate capacity, except for causes of action arising out of their legitimate business. It may seem in such cases hard that the party which has received the advantages of the labour or materials of the Company should be allowed to avoid paying for them by setting up such a defence; but the argument has received this obvious answer, that it is not for the sake of the defendant in such cases that the defence is allowed, but from necessity, in order to confine corporations to the legitimate use of their powers; for if they could enforce their demand in such cases, there would be no value or force in the legal principle which declares that they shall have no power to act out of the proper scope of their charter."

"But, as we have already stated, the plaintiffs' action, in our opinion, fails as to the claim for work done on the line; because it was out of the scope of the plaintiffs' charter to construct a railway between Preston and Berlin, or to assist in it, and therefore they cannot in their corporate capacity sue for payment for such work."

Now, I take it for granted there can be no question whatever that without the authority of an act of Parliament, it would be quite impossible for the Great Western Railway Company to use their funds in any manner or shape in regard to the advancement of the Detroit and Milwaukee. They perhaps would be at liberty to enter into an agreement for the carrying traffic, which would be strictly within the nature of their business; but as to lending funds for the purpose of completing a railway, for retiring its notes and paying its coupons and the interest due on its bonds, it seems to me impossible that the Great Western Railway Company could be parties to any such transactions. On that ground, the language which I have read is very strong. Equally strong is it in the case of *Lyman and the Bank of Upper Canada*, 8 Queen's Bench Reports.

The learned JUDGE—If I recollect right, it relates to the furnishing of supplies to steamboats.

MR. M. C. CAMERON—It applies to the Bank of Upper Canada dealing in steamboats. I would carry the argument to this extent—that the authority which has been shewn by the plaintiffs in this action as given to the Great Western Company, by the Board at home and the votes of the shareholders, is simply to authorize the Great Western Directors in Canada to control the expenditure of certain sums of money which were advanced by the Great Western, upon security, for completing the working of the railway. It was not at all authorized by the shareholders that any of the moneys, so advanced, should be used in payment of the bonds, or interest on the bonds of the Detroit and Milwaukee Railway. The minute of the Board, on this head, indicates that the money was only to be used to complete the working of the railway, and that it was not to be applied to such purposes as have been contended for here to-day. There are numbers of English authorities, which shew quite distinctly that a joint-stock company formed under a deed of settlement, and having corporate powers to a certain extent, cannot make any arrangements whatever for assuming the responsibilities or liabilities of another company. There are many authorities on this point; but I will now refer to the case of



the South Yorkshire Railway Company and the Great Northern Railway Company, in 9 Exchequer Reports, page 84, where it will be found that Baron Park held this language:

"But where a Corporation is created by an Act of Parliament, for particular purposes, with special powers, then indeed another question arises; their deed, though under their corporate seal, and that regularly affixed, does not bind them, if it appear by the express provisions of the Statute creating the Corporation or by necessary or reasonable inference from its enactments, that the deed was ultra vires—that is, that the Legislature meant that such a deed should not be made."

I think my learned friend (Mr. Eccles) has established in his opening that the Great Western Railway Company was created by Act of Parliament for a particular purpose. There are a great number of authorities in our favour, but I think it unnecessary to refer to them all at this time.

The learned JUDGE—I have heard the cases cited over and over again.

Mr. M. C. CAMERON—"A railway company incorporated by Act of Parliament is bound to apply its moneys to the purposes authorized by its Act."

The learned JUDGE—Are you reading from Grant?

Mr. M. C. CAMERON—No; from Solomons and Lange. It is in 14 Jurist, 347. This has been suggested to me to read. But I thought it was sufficiently within the scope of the other general objections that arrangements entered into by officers of a company, not being such as are lawful, cannot be sustained.

The learned JUDGE—I should say that was involved in your other objections.

Mr. M. C. CAMERON—I have no doubt that the Commercial Bank thought they were acting for the best when they permitted their funds to go to protect the coupons of the Detroit and Milwaukee Railway; but still this was not a thing contemplated by the Great Western Railway, as shown by their minutes, and had the Great Western Railway given such authority, it would have been illegal. They, therefore, have no right to recover.

The learned JUDGE—It is clear that if the plaintiffs committed an illegal act, they cannot avail themselves of any advantage from it.

Mr. M. C. CAMERON—The case of Whitehead and the Buffalo and Lake Huron Railway Company is one with which your Lordship is, no doubt, familiar. That shows, so far as a particular officer is concerned, that, though he may be named by Act of Parliament as Managing Director, he has not power, authority, or scope, to bind his company, except as to the general business of the company to which his office would particularly apply. And so, in this case, if these gentlemen did enter into arrangements of the nature suggested, they could not bind the company. I do not think either that the evidence can in any shape bring this matter within that class of cases where it is held that a contract having been executed, and the defendants, though a corporation, having received the benefit of it, they are to be held liable; because the evidence here offered is against such a conclusion, the Great Western Company not having received any benefit whatever. It is the Detroit and Milwaukee Company which received the benefit—a company distinct from the Great Western, though it may be of service as a feeder to it. The money was, beyond all question, received by Mr. Brydges, the President, and Mr. Reynolds, the Vice-President, of the Detroit and Milwaukee Company—offices quite as high and distinct as the offices which these gentlemen held in connection with the Great Western. It was paid to them in that character, and it could not by any possibility be considered as having been paid to the Great Western. Certainly, everything that was received by them, or that was paid on their order, went to the benefit of the Detroit and Milwaukee Railway. And, on all these grounds, I think that the plaintiffs should be dismissed.

The learned JUDGE—I will reserve you leave, Mr. Cameron, to move hereafter.

Mr. M. C. CAMERON—It is a matter of consequence, your Lordship, to the Great Western Railway, that the matter should not be kept hanging over them unnecessarily. And if your Lordship holds the same views as I have just urged, I think your Lordship should rule at once in our favour.

The learned JUDGE—If I were pressed now to rule, I should rule the other way.

Hon. J. H. CAMERON—You must allow us to have a word or two, if you please, before you dispose of the matter.

The learned JUDGE—It is of the utmost importance that I should form a correct opinion of the points submitted; and when I said that if I had to rule at the present moment, I should rule against you, Mr. Cameron, you must understand that such is not my final decision, and that I may not subsequently hold myself to it. It would be to the advantage of all parties that I should not now rule either way, because if my ruling were wrong a new trial would be applied for and granted, and the whole of the ground would have to be gone over again, which would be a serious disadvantage.

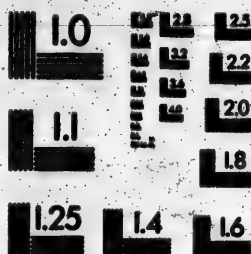
Hon. J. H. CAMERON—Then your Lordship will submit a certain statement of facts to the jury. Perhaps you will be good enough to indicate what these facts will be.

The learned JUDGE—I cannot tell just at present. I must first hear what facts you are going to prove. But the main feature to my mind to be submitted is this: To whom and for whom was the original credit given?

Hon. J. H. CAMERON—That is really the only question of fact. There are one or two points which should be mentioned, that your Lordship might go over with us, as you have done with what has been submitted by my learned friend. As far as I can see, my learned friend's objections are three. The first is, that there was no account between the Commercial Bank and the Great Western Railway, in its character of Great Western Railway, on behalf of the Detroit and Milwaukee; secondly, that whatever was done, was done *ultra vires* of the Great Western; thirdly, that the letter of the 16th December, 1858, though in the nature of a guarantee, would not be binding for want of consideration being expressed on the face of it, and for want also of a seal. I think that the objections taken by my learned friend on any of the points are not tenable. First of all, as to the question of account, and as to the application of the various cases my learned friend has cited, it must be remembered that the plaintiffs are not dealing *ultra vires*, but that they are dealing in strict conformity with their charter; and they are not dealing with a company having no power to deal with them, because they have a declaratory Act giving them whatever power may have been wanting in the first instance. We, therefore, stand by our charter, and say that that gave us a perfect right to do what was done, and that we were not in any degree engaged in any transaction of business opposed to the powers conferred upon us. That these gentlemen of the Great Western, however, did engage in that which was against the powers contained in their original charter is clear, by going into a foreign country and controlling the Detroit and Milwaukee Railway. But they procured an Act of Parliament confirming in the broadest possible way what they had done. That Act enabled the shareholders also to go on advancing moneys to the Detroit and Milwaukee. Then the answer to the first question put by my learned friend is this: that the Great Western did that which they had power to do; and the Commercial Bank did that which they had power to do. Then, as to the question of the *ultra vires*, as to these parties having gone beyond the scope of their charters, I say that it does not apply to this case at all; because we have extensive authority, as unlimited as we could desire. And authority to the extent of £250,000 sterling was acted upon; whilst there was also power on the part of the defendants to act to a greater extent, if necessary. The matter then comes down to this point: that the Great Western Railway Company acquired power to deal with this foreign railway company, and that power they placed in the hands of Messrs. Brydges and Reynolds. And we say, that in dealing with them we have opened the account. The jury will have to say whether this was a Great Western account. I do not care whether it was called the Detroit and Milwaukee Railway Company's account, or any other account, or whether the cheques were or were not drawn in the names of the President, Vice-President, Accountant, and Secretary of the Detroit and Milwaukee Railway, the question which I submit to be determined is, was the credit given to the Great Western Railway by the Commercial Bank? This is the great question of fact to be submitted to the jury. We contend that the evidence we have given entitles us to say that it was. We say, secondly, with regard to the *ultra vires*, that it is a matter which cannot concern us. The moment we establish the authority of the Great Western Railway Company, we shew that we are dealing within the scope of our charter, and theirs as well. We are not bound to examine into the extent of their authority to deal with a party in a foreign country. If they borrowed £100,000, more or less, from us, and expended it on an undertaking, security on which they had obtained, and the advantage of which they enjoyed, they have no right to turn round and say, "We were borrowing beyond our powers; and, therefore, you cannot come upon us for any portion of your account." We say, "The moment you had authority to deal

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with this question at all, you had power to deal within the scope of that authority." And as to the letter of December, 1868, we contend that it is not a letter of guarantee so much as it is a letter confirmatory of the nature of the transactions which had already taken place, and which were yet to take place. They do not use the word "guarantee" any where in it. They say that they hold themselves responsible, and that they use that letter for the purpose of putting the matter on record. Here, then, is the *littera scripta*, which is far better than mere loose recollections of witnesses. It is not then, a question of guarantee, it is not a question about the corporate seal, it is not a question of past liability or future liability, or a question of want of consideration on the face of the letter—it is simply what we here declare it to be: a statement in writing about a foregone transaction, showing in black and white what was the previous verbal understanding of the parties concerned. We submit that whatever evidence may be offered by my learned friend, the question to be first submitted is, whether this credit was given to the Great Western Railway, by the Commercial Bank, or to the Detroit and Milwaukee Railway. And in reference to that, there is the further question, were the Commercial Bank dealing *bona fide* with these parties, as exercising the powers given them by the Act of Parliament, and had they any knowledge of the £250,000 having been already expended? Such being the case, we cannot agree to any leave being reserved to my learned friend to move for a non-suit.

The learned JUDGE—I am sorry, Mr. Cameron, that it is put upon that footing.

Hon. J. H. CAMERON—But how, your Lordship, can it be a question of law for a non-suit?

The learned JUDGE—You are assuming that your argument is right. Now, I do not say whether it is right or wrong; but if it is right, there is no danger to you hereafter.

Hon. J. H. CAMERON—How can it be a question of law, apart from these facts to be found by the jury? Does your Lordship mean to say that if the jury should find the facts to be in our favor, leave will be reserved to my learned friend to move to enter a non-suit?

The learned JUDGE—I do.

Hon. J. H. CAMERON—If the jury find in our favor upon the points we suggest, I say that the verdict must be for the plaintiffs.

The learned JUDGE—Mr. Cameron has raised certain points. I shall submit these to the jury, subject to the law. If you are right in your argument, you have no reason to fear that a non-suit will be entered.

Hon. J. H. CAMERON—If the jury find these points in our favor, then should the verdict be entered for us, without further delay.

The learned JUDGE—I do not think so; and for this reason, that Mr. Cameron has already pressed me to give an opinion, which I declined to do, and I think that in a case of so much importance I ought to deal with your objections in a similar way.

Hon. J. H. CAMERON—My learned friends beside me are averse to the case going in any other way than in the way I ask.

Mr. ECCLES—There are grave and serious reasons, my Lord, why the verdict should not be trammelled with any reserve or condition.

The learned JUDGE—What difference is it?

Mr. ECCLES—A great deal of difference.

The learned JUDGE—I cannot see it. Supposing I rule in your favor—which I do not hold myself to do—they would move for and obtain a new trial, probably. What advantage, then, would it be to you to force me into such a position?

Mr. ECCLES—We gain what I conceive to be a very great advantage. They bring us to another trial, on which other trial we undertake to present a very different case. If anything turns on the act of Parliament, perhaps before the new trial is ordered we shall find that act of Parliament in such a shape as will not admit of the objections being taken under it as are now raised.

The learned JUDGE—Again I say I am sorry that such an objection is taken; for you are endeavouring to force me to give an opinion which at present I do not feel myself competent to do, without looking more fully into the matter.

Mr. ECCLES—As to that, I do not see that it would matter a great deal what your Lordship's ruling may

be, because, in any event, the case will probably again come before the courts; and we think that before the case again came to trial, we could obtain an act of Parliament, so as to remedy any evil that may have been done.

The learned JUDGE—We have had two or three times to suspend the action of the court, for the purpose of an act of Parliament being obtained; and in this respect I do not see that it would make any difference to you whether you are non-suited or a new trial is granted.

Mr. M. C. CAMERON—It seems to me that in a case in which there is such a vast amount at stake, my learned friends ought not to hesitate for a single moment to reserving us leave.

Hon. J. H. CAMERON—My impression is that there is perhaps no objection to leave being reserved; and we will consent to that being done, if your Lordship so desires it.

The learned JUDGE—Very good.

Mr. Thomas Reynolds was then called and examined by Mr. M. C. Cameron.

Q.—You are Vice-President of the Detroit and Milwaukee Railway Company, are you not? A.—I am.

Q.—When did you come to this country first? A.—In the fall of 1857, in connection with the Great Western Railway.

Q.—The arrangement between the Company and the Bank was made prior to that time, was it not? A.—It was.

Q.—Did you enter into any arrangements with the Commercial Bank in regard to the Detroit and Milwaukee? A.—Yes. I saw Mr. Ross, and took with me a statement, and the resolutions of the Great Western Board relative to the loans which Mr. Brydges and myself were instructed to employ in the completion and equipment of the Detroit and Milwaukee Road. We shewed Mr. Ross a detailed statement of the monthly requirements and the traffic receipts of the Railway. The traffic receipts and the monthly notes which were to be drawn upon the Bank in England were expected to realize in the year the sum of \$705,000. I explained the whole matter to Mr. Ross, shewing what our expectations were of traffic receipts, and how we proposed to make up the balance for the advances we asked; and he appeared to acquiesce in the representations made.

Q.—After explaining this statement, what was the arrangement you made? A.—I told him that Mr. Brydges and myself would like to draw to the extent of our requirements in carrying out this undertaking of the Detroit and Milwaukee, and at the end of each month we would cover the amount by bills of exchange on England.

Q.—You say you asked them to allow Mr. Brydges and yourself to do certain things. Did you ask them to allow the Great Western to do those things? A.—No. The Great Western Company were not mentioned at all.

Q.—Do you say that distinctly? A.—Most distinctly. I would not have thought of making any such arrangement on behalf of the Great Western Railway.

Q.—Had you power or authority to make arrangements with the Commercial Bank, such as you speak of, on account of the Great Western Railway? A.—None whatever.

Q.—I see that during the first month you paid into the Bank more than you drew out. The bill of particulars shews that during the first month you drew out \$29,000, and you paid in \$29,066 66. How did that happen? A.—It arose from the difference in value of the rate of exchange.

Q.—It was £6000 sterling which you paid in, and that left \$66 66c. to your credit on the transaction? A.—Yes.

Q.—When was it that you became Vice-President of the Detroit and Milwaukee Railway? A.—About the middle of January—I think on the 22nd January, 1858.

Q.—Did Mr. Brydges become President of the road at the same time? A.—Yes, at the same time.

Q.—And you went on dealing with the Bank, in the way you have spoken of, on behalf of the Detroit and Milwaukee? A.—We did.

Q.—How long did those dealings continue unchanged? A.—Until the end of the year 1858.

Q.—What change did then take place? A.—The change then made might just as well have been made.

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page 110.

earlier. It consisted in placing the matter in a more formal shape as to the account. Engraved plates were obtained, with the Detroit and Milwaukee heading, and all cheques were signed by Mr. Brydges, myself, the Secretary and the Accountant. The cheques now shown to me are those which were at that time adopted.

Q—Previous to that, the cheques were drawn by yourself and Mr. Brydges, without any official designation? A—Yes; they were issued in accordance with my arrangement with Mr. Ross.

Q—Had you kept a Detroit and Milwaukee account with any other Bank previous to that time? A—Yes; we had an account in Detroit; but when the Windsor branch of the Commercial Bank was opened, we closed with the Michigan Insurance Bank in Detroit, and paid in our receipts to the Commercial Bank at Windsor instead.

Q—Was the account at Windsor merely a subsidiary account to the Hamilton account? A—It was a substantial account as far as it went.

Q—Had you any authority from the Detroit and Milwaukee Board of Directors to carry this money to the Great Western Railway Company's credit? A—Not at all.

Q—Had you not a large amount of correspondence with Mr. Park during the time that this account was opened? A—Yes, a considerable amount of correspondence took place.

Q—Did he recognise the distinction between you as the Vice-President of the Detroit and Milwaukee and the Finance Director of the Great Western? A—Yes, constantly.

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Q—Look at that pile of letters (handing to witness a number of letters). There is nothing of consequence in any of them, except that they are addressed to you on railway business in those two characters? A—Yes; I received letters from Mr. Park in that way.

Q—You not only received letters, you say, from Mr. Park in your character as the Vice-President, but in your character also as the Financial Director? A—Yes, frequently.

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page 60.

Q—There has been a letter put in, bearing date 16th December, 1858, signed by you and Mr. Brydges, and having reference to the liability of the Detroit and Milwaukee Company. Will you state what took place between you and Mr. Park, which led to the giving of this letter? A—I met at the Commercial Bank in Hamilton Mr. Campbell—I think it was the first time I had seen him—with Mr. Park. The account of the Detroit and Milwaukee was then considerably overdrawn. Mr. Campbell, after some preliminary conversation, said they wished very much to have the balance reduced, and asked me for exchange for that purpose. I told them that I was sorry to be obliged to say I could not give them exchange, having received instructions from home to avoid drawing as long as possible.

Q—What was this exchange to be in reference to? A—As I understood it, the first loan of £150,000 had nearly all been expended, and another loan had been granted by the English shareholders, amounting to £100,000. It was in reference to that the exchange was asked for. I told him I could not give exchange at that time. He said that it did not matter about the dates—that the drafts might be made at long dates. Still I declined. Upon that, Mr. Campbell or Mr. Park made the observation, that there was no certainty of their getting the money at all. I said that they might rest satisfied on that head. They then asked for a letter to that effect, and on leaving I promised to send a letter next day, which I did.

Q—Was it stipulated at that time that you were to have a further credit? A—It was not. The matter was going on at that time just as it had gone on before.

Q—And they complained, you say, of the overdrawn balance? A—They did; and it was in consequence of that I gave the letter.

Q—Do you know what balance was at that time due? A—Upwards of \$300,000 I think.

Q—Their account shews it to have been on the 13th December, 1858, \$358,667 84. Did these gentlemen desire you to give them a paper to protect them from future advances or from past advances?

A—The discussion had reference simply to the overdrawn account, and nothing was said about future advances.

Q—Have the Great Western Company actually paid the Detroit and Milwaukee Company the amount of the £250,000 loans? A—They have paid this amount to the Detroit and Milwaukee Company. The whole of the two loans has been absorbed.

Q—How much of that money actually went to the Commercial Bank? A—Subject to correction, I have here a memorandum showing that the sum of \$700,850 of the two loans has been so paid—including bills of exchange on England, and the money paid on this side of the water.

Q—Did you pay any of the money to the Detroit and Milwaukee Company with the knowledge of the Commercial Bank? A—Yes. Provision was made for the coupons in London with the knowledge of the Commercial Bank. There were also so paid two other claims on the Detroit and Milwaukee for iron which was required to finish the road, and which was held in New York.

Q—The Great Western Railway Company took security, did they not, on the Detroit and Milwaukee for these advances? A—Yes; there were two mortgages—one for £100,000; the other for £150,000. I may add that the Great Western Railway never claimed any of the moneys now claimed by the Commercial Bank.

Q—Had you any other transactions connected with the Detroit and Milwaukee Road during the period elapsing between 1857 and 1859? A—We found it necessary to provide steamboats to run across Lake Michigan. Mr. Brydges and myself accordingly applied to the Commercial Bank for funds with which to build these steamboats, and an account was opened in our joint names similar to the other account, only the cheques were headed "Steamboat Account." We chequed in the same way for the steamboats as we did for the railway, with the exception I have mentioned in regard to the cheques being headed "Steamboat Account."

Q—They have never claimed, I believe, the amount of that account from the Great Western Railway? A—Not that I am aware of.

Q—When was it that you first became aware of their intention to make any claim against the Great Western Railway for any amount beyond the Great Western loans to the Detroit and Milwaukee? A—The first distinct knowledge I had of it was conveyed in the letter written to Mr. Stephens by Mr. Ross in connection with the Wyandotte Rolling Mill Bonds.

Q—You entered into some negotiations with the Bank, did you not, in regard to the giving of bonds instead of exchange? A—Our English Board requested us to pay over as much of the authorized loan as we could out of the receipts on this side. The Great Western account at the Commercial Bank which previously had been heavily against us, had then come round to the right side of the book. That is to say there was a credit in the Great Western Railway's favour, instead of a debit against them. And the Board at home being anxious that we should pay as much of the authorized loan as we could on this side, we adopted the mode we then took of making the payments, and we gave a bond for \$100,000.

Q—Did you give anything with the bond for \$100,000? A—On one occasion we gave a \$100,000 bond by itself. But we gave a second bond of \$100,000 as collateral to two notes of the Detroit and Milwaukee Railway Company, for \$50,000 each.

Q—And the proceeds of both these bonds went to the Commercial Bank? A—Yes; they were paid at maturity. Indeed the first bond was discharged before it actually matured.

Q—Did you at any subsequent time enter into any arrangements with the Commercial Bank to give other bonds? A—The balance of the Detroit and Milwaukee account being heavily against us, we were applied to for exchange; and as we could not give it, it was suggested by Mr. Ross that we should give four or five notes of the Detroit and Milwaukee Company, of \$50,000 each, and that we should also give bonds of the Great Western Railway as collateral security to these notes. He said the notes could then be discounted, and the collaterals be deposited with those who held the notes.

Q—And during all these discussions, was there ever a claim made by the Commercial Bank against the Great Western as being liable for the debt of the Detroit and Milwaukee Railway Company? A—Nothing further than as to its liability for these bonds as collateral to the notes.

Q—Had you any conversations with Mr. Park in regard to the difficulties of the Detroit and Milwaukee Railway? A—Very frequently.

Q—What took place between you in regard to the prospects of the Detroit and Milwaukee being able to discharge the amount of its indebtedness to the Bank? A—Mr. Park was interested generally in the progress of the road, and the weekly traffic earnings; and when, towards the year 1859, it was proposed to get another loan or to raise more money in England, I frequently talked to Mr. Park about the progress of these operations.

Q—The balance at that time against the Detroit and Milwaukee Company was far over the amount of the loan? A—Oh, yes.

Q—But he did not claim that the Great Western should make good that balance? A—Certainly not; I state that most positively.

Q—Did you at any time see Mr. Ross on the subject? A—I saw him at the Romain House, Toronto, in the month of June, after he had negotiated the four \$50,000 notes I have spoken of. Mr. Brydges was with me, and Mr. Park was also present. Mr. Ross told us he had negotiated the notes, and he handed us two letters. We said we were all satisfied with the arrangement made.

Q—Was anything further said? A—I am not aware of there being anything further.

Q—Did you see Mr. Ross afterwards, in New York? A—Yes; I saw him in New York on the occasion of Mr. Brydges' arrival from England. Mr. Brydges had been to England to endeavour to effect a further financial arrangement for the benefit of the Detroit and Milwaukee Railway. I went down to New York to meet him. I saw him at the St. Nicholas Hotel. Mr. Ross came to the hotel late in the evening—as late as eleven o'clock. We met together in one of the rooms, and talked about the result of Mr. Brydges' mission to England, and its non-success.

Q—Then Mr. Brydges had failed to induce the shareholders of the Great Western to make a further advance to the Detroit and Milwaukee? A—He had.

Was anything said at that time by Mr. Ross, as to any claim the Commercial Bank had against the Great Western, on account of the Detroit and Milwaukee? A—Only as to the collateral bonds.

Q—Do you recollect whether any communication was read by Mr. Ross on that occasion, as coming from Mr. Park? Yes; Mr. Ross read a very long letter from Mr. Park, setting forth—

Mr. ECCLES—Don't tell us the effect of a long letter. Give the letter itself.

Mr. M. C. CAMERON—We have asked you to produce it, and you have not done so. (To witness)—It was in reference to these bonds, was it not? A—Mr. Ross only read that portion of it connected with the bonds.

Q—Mr. Ross says he does not recollect what was the subject of conversation at that meeting. Was it not in reference to these bonds? A—It was.

Q—How was it that, at that time, they claimed to hold these bonds? A—That was always an enigma to me. I do not know why they claimed to hold them, after the distinct terms of my letter of the 28th of May.

Q—I believe some of the officers of the Bank were anxious that the Prince of Wales should take a trip across the Detroit and Milwaukee Railway? A—I understood so. I was myself anxious that the Prince of Wales should pass over the line.

Q—Do you know if those gentlemen of the Commercial Bank took an interest in the welfare of the road? A—I always thought that they took an interest in the progress of the road.

Q—Did you make any representation to the Board of Directors of the Great Western Railway that you had given such a document as the letter of the 16th December, 1858? A—I did not consider it necessary to make any such communication. It was looked upon by us as a mere ordinary letter. We regarded it as simply carrying out the orders of the Board in reference to the expenditure of the loan.

Q—I believe you were called upon in October, 1859, by the Commercial Bank for a certificate of the liabilities of the Detroit and Milwaukee Company? A—Yes.

Mr. M. C. CAMERON read a letter of 14th October, 1859, as follows:

Q—And you returned a certificate through Mr. Park to the Commercial Bank, showing that this was a debt due by the Detroit and Milwaukee Railway Company to them? A—Yes.

Q—Do you recollect the circumstance of some coupons having been paid in the month of November, 1859? A—I do. I had been daily expecting information from England to the effect that additional money would be forthcoming for the Detroit and Milwaukee, and up to a few days before the due date of the coupons I thought to be able to meet them from this source; but not having received any encouraging advices from that quarter up to within a few days of the coupons falling due, I wrote a letter to Mr. Park, of the Commercial Bank. In that letter I regretted that we could not meet the payment of the coupons, and I desired him, if they were presented at the Bank, to ask the holders if they would hold them over for a while. Mr. Park

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replied by requesting me to call in the morning, which I did; and as he said he could not receive my letter officially until he had communicated with Kingston, I withdrew it until he could communicate with that city.

M. M. C. CAMERON—The letter is to this effect:—

[See Appendix, 151, page 96.]

He also read a letter of 7th November, 1859, as follows:—

[See Appendix, 147, page 94.]

WITNESS—That letter was withdrawn in consequence of a letter which Mr. Park received from Mr. Ross.

Q—Has the Great Western Railway Company a corporate seal? A—It has. It is kept at Hamilton in a box with two locks. I have one key and the Managing Director has another. The Secretary has also a key, and the other Directors have each a key. So that it requires the keys held by two persons to obtain access to the seal. Thus the seal could not be attached to any document without the consent of at least two persons, The Secretary, myself, and any one Director can execute a document if necessary. Mr. Brydges and myself have similar keys; so that if I were absent, Mr. Brydges and the Secretary could open the box, and if Mr. Brydges were absent, the Secretary and myself could get access to the seal.

Q—For what purpose did you give the letter of the 16th December, 1858? A—As I have said before, App^x it was given in the way of carrying out our general instructions from England as to the expenditure of the Great Western loan. Our instructions gave to us no authority to borrow for the Great Western Railway Company on account of the Detroit and Milwaukee Railway Company. (90)
page 90.

Q—In your communications with Mr. Park was there anything said as to these papers (the cheques) not being understood to mean what was expressed on the face of them? In other words, was it even suggested that the Detroit and Milwaukee cheques should be regarded as being the cheques of the Great Western Railway? A—Oh dear no, Sir. Not at all.

Q—The account of the Detroit and Milwaukee was distinct from that of the Great Western? A—Perfectly distinct.

Q—There were the offices of the Detroit and Milwaukee Railway? A—The offices of the Detroit and Milwaukee and of the Great Western at Hamilton were entirely distinct.

Mr. BOOLIS (to witness)—We will follow this point up now that we are fairly on the track. Now, where are the offices of the Detroit and Milwaukee situate at Hamilton? A—The business is carried on in the Great Western Company's office. But there was a Detroit and Milwaukee President's office in Hamilton.

Q—I see here a letter headed, "Detroit and Milwaukee Railway: President's office, Hamilton, C.W." Now is that office outside the Great Western offices? A—No; the business is carried on in the Great Western Company's offices.

Q—You say that you came from England in 1857, after the account of the Great Western Railway Company had been opened with the Commercial Bank? A—I did.

Q—From whom did you get instructions before you left England as to what your duties were to be in this country? A—From the Secretary and members of the English Board. I was unable to attend the Board meeting in consequence of illness. The instructions were verbal in their character. As regards the Great Western, my position was to be that of Finance Director, and it was understood that I was to be made Chairman of the Finance Committee, and that all matters of finance and all internal money arrangements were to be under my charge.

Q—Up to that time, they had been under charge of Mr. Brydges, I believe? A—I cannot say from experience.

Q—You have said that the letter of the 16th December, 1858, was not of such a nature as to require to be brought under the notice of the Finance Committee, or the Board generally, or to be entered into any of the books of the Great Western Company? A—Certainly not.

Q—Although you state in that letter that the Great Western Railway Company holds itself liable for all overdraft on the D. and M. Company's account. Did you, when you wrote that letter, suppose that you were pledging the Great Western to the payment of the overdraft? A—Yes; up to the extent of the loan which Mr. Brydges and I were empowered to expend on the Detroit and Milwaukee Railway.

Q—And you say that the balance then due to the Commercial Bank, and for the payment of which you had been pressed by Mr. Campbell and Mr. Park, was \$385,000? A—Yes.

Q—Was there a balance of the first loan of £150,000 then, in December, 1858, still unexpended? A—A small portion of it.

Q—In that case there was a sum remaining to be expended equal to the balance then due to the Commercial Bank? A—Yes.

Q—If you intended to shew that the Great Western held itself liable only for a certain amount of overdraft, why did you not limit it to the extent of the loans? A—There were also some matters to meet in England in the shape of coupons on the Detroit and Milwaukee bonds.

Q—But why, I ask you, did you not say "to the extent of the loans," instead of "all overdraft?" A—I did not say so. The question was as to how the balance overdrawn was to be met. That was the subject of the discussion the day before.

Q—And you say that the conversation which took place had reference only to the balance then due? A—It was as I have said. We would cover any overdrafts which might be current, up to the extent of our powers.

Q—Here is the programme of the liabilities of the assets of the Great Western and Detroit and Milwaukee Railway Companies which you laid before Mr. Ross at the meeting in Toronto. Was that after you had been up to Detroit to investigate the affairs of the Detroit and Milwaukee? A—It was.

Q—I see by it that the total amount you made out as assets of the two companies was \$1,035,000? A—Yes; but there was subsequently another schedule made out.

Q—At present I do not understand from your statement for whom you were negotiating with Mr. Ross. You had just came out from England, as I understand, and you soon after went to Detroit to investigate the affairs of this Company. You then returned to Hamilton and told Mr. Park what you required, and through his intervention you met Mr. Ross in Toronto. Now when you met Mr. Ross, what did you tell him? A—I took with me the resolution under which we were empowered to spend this £150,000 sterling in completing the Detroit and Milwaukee Railway. I told him we had that authority to go on with the work, and I asked him to assist us in our undertaking.

Q—When you speak of "we" and "our," I want to know who you mean? A—I meant Mr. Brydges and myself.

Q—I want to know if you did not make representations for the Great Western Railway Company? A—I was simply making representations for Mr. Brydges and myself when I was asking for the money to enable us to carry out the instructions of the English Board. We were acting for the Great Western Company in carrying out those instructions, but we were acting in our individual capacity in asking Mr. Ross for these advances.

Q—If you were here as the Finance Director, and Mr. Brydges was here as the Managing Director, of the Great Western Railway, did you consider that you had authority to act thus for yourselves? A—I will tell you all about it. We were about to commence the payment of money for the Detroit and Milwaukee, in furtherance of the instructions of the English Board, on account of the loan granted by the shareholders.

Q—I want to know whether what you did was done in the capacity of agents or directors of the Great Western Railway? A—We spent the money for the Great Western Company.

Q—That is all I want to know on that head. Then you met Mr. Ross as agents for the Great Western, and had this understanding on behalf of the Great Western? A—Yes; but I desire to explain—

Q—I have now found out that all you did was done by both of you on behalf of the Great Western Railway Company. When you asked Mr. Ross to allow you to commence drawing at once, did you name the Detroit and Milwaukee Railway at all? A—Yes; we did.

Q—What did you say? A—I told Mr. Ross that we were intimately connected with the Detroit and Milwaukee Railway Company—that we intended to be placed on the Board, and to remodel the Board—and that as members of the Board we would have control of the expenditure of the moneys voted by the Great Western Railway shareholders. There arose a difficulty at that exact moment as to the mode of drawing. If

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we had been acting as directors of the Detroit and Milwaukee Railway we should have opened the account at once as such, but as it was, we opened the account in our joint names, so as to expend the money voted by the shareholders at home.

Q—I ask whether in this contract—I call it a contract—or this negotiation or agreement, you made the bargain for the Great Western, the Detroit and Milwaukee, or for your individual selves? A—We made it for the purpose of giving effect to the vote of the shareholders.

Q—I want you to make your answer a little plainer. Was it on behalf of the Great Western Company, or was it on behalf of the Detroit and Milwaukee Company, or was it on behalf of yourselves individually that you made this arrangement with Mr. Ross? A—I have told you already. We opened an account in our joint names as individuals.

Q—Then do you mean by that to say that it was not for the Great Western? A—It was in pursuance of the instructions to expend the money.

Q—I dare say you know something about law as well as finance. For instance, if I send my agent with a thousand pounds to invest for me, and he takes it to the Bank and makes it payable to himself, I am deprived of the benefit of it. Now, this transaction of yours appears to be very much like that. You say that you are agents of the Great Western, but that you made the arrangements with Mr. Ross in your individual names. It thus requires a great deal of explanation to find out whether according to your own ideas you or the Great Western were liable for what you then did? A—There were some very uncomfortable explanations in England after we had made this arrangement. I felt that we were in an awkward position, and personally responsible for these drafts. I felt that if the Company did not meet these drafts, we might be compelled to.

Q—This is not the question. It is not whether the members of your Board repudiated your acts after you had done them. But I ask you if, when you did them, you intended them to be binding on the Great Western? A—All I can say is that it was an interim arrangement for the purpose of aiding us in carrying out the instructions on account of the Detroit and Milwaukee Railway Company.

Q—You do not give me an answer to my question. Now tell me if I am wrong in saying that you and Mr. Brydges met Mr. Ross, as agents for the Great Western, with a view to making a bargain for them and not for your individual selves, and that you made a proposition as such agents to open an account for the Great Western, although it was opened in your individual names? A—We opened the account and made the arrangements with Mr. Ross purely on our own responsibility. We had no instructions whatever to do so from the Great Western Railway Company.

Q—I admit all this. But was it your own transaction—your own speculation? A—Certainly not.

Q—Then it was the Great Western's business? A—It was the Great Western's business to find the money, but it was our business to spend it. (Laughter.)

Q—I think that will do. You heard Mr. Ross yesterday state distinctly that he refused to open an account with the Detroit and Milwaukee? A—And I was much surprised to hear it.

Q—And do you give that statement a contradiction? A—I do most distinctly.

Q—Remember that Mr. Park was also present, and they both swear to what they said? A—I am greatly surprised. But I must give an unqualified contradiction to both of them.

Q—Then do you mean to say that both these gentlemen have stated what is not true? A—What I mean to say and what I do say is that they never made such an observation to me.

Q—Neither, I suppose, did Mr. Ross say that he would open the account with the Great Western? A—The Great Western was not referred to. The whole of the circumstances surrounding the interview must have shewn that the money was for the Detroit and Milwaukee. I shewed him the resolution of the shareholders under which we were authorized to spend this money.

Q—In regard to this pass-book, in which I do not see your name or that of Mr. Brydges, did you tell them that the heading was wrong? A—We had no reason to do it, as by that time the Company were fully organized. The little earlier difficulty was then done away with, and Mr. Brydges and myself were agents of the Company. App'x
(204)
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Q—Did you ask Mr. Ross to open an account with you personally? A—I asked him to open an account.

The resolution of the shareholders and the schedule were the subjects of conversation. I asked him to allow us to open an account, against which we could draw for the purpose of carrying out the arrangements contemplated.

Q—You say that by the end of January you had reorganised the Detroit and Milwaukee Railway Company, and that you became Vice-President, and Mr. Brydges President? A—Yes.

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Q—You drew then bills on England. Here is the first for £6000? A—Yes.
Q—And how did you sign them—in your name and in that of Mr. Brydges? A—Yes; as officers of the Great Western. The money was to be applied to the trustees of the D. & M. account, the trustees being Mr. Brydges, Mr. Beeber and myself. At that time it was arranged that the mortgages were to be given to us, to secure the advances made by the trustees.

Q—Then this bill is drawn by you three gentlemen as officers of the Great Western, to be applied to the account of you three gentlemen as trustees of the Great Western? A—Yes.

Q—You say that a very unpleasant explanation took place in England as to this transaction? A—It was not so much an explanation either. After the first instructions had been sent to Mr. Brydges and myself to proceed with the arrangements for expending the money in completing the works of the Detroit and Milwaukee Railway Company; and after we had committed ourselves to personal liabilities in our efforts to get these matters put into shape, we received from England letters telling us to hold back and not go on.

Q—You received these instructions in writing, you say? A—Mr. Brydges brought out verbal instructions as to what we were to do in regard to the Detroit and Milwaukee Railway.

Q—And I suppose that under these general instructions, you thought you had a right to commence a Bank account immediately? A—Yes, we thought so. And yet, not immediately, because we were aware that the money could only be advanced by degrees.

Q—In your instructions, was the time limited for drawing? A—There was no limit, but the state of the money market at that time rendered it desirable to draw as slowly as possible.

Q—Then it was a great advantage to the Great Western Railway Company to have a credit to be covered at the end of the month? A—Certainly. We had the advantage of chequing on the Commercial daily, and of drawing bills at the end of the month to cover the overdrafts. The directors never found fault with that.

Q—What did they find fault with, then? A—We received letters on the 9th or 10th of January, telling us not to go on with the operations at all. This was the unpleasant feature of the case, to which I have referred.

Q—Then they changed their minds? A—They changed their minds at that time, but rechanged them again afterwards.

Q—And that called forth an explanation from Mr. Brydges and yourself as to the position you were in? A—Yes.

Q—Upon receiving that explanation, they, as you say, rechanged their minds and allowed you to proceed? A—Yes.

Q—Did you inform any officer of the Bank that the Directors at home had changed their minds? A—No.

Q—The personal responsibilities you speak of as having been incurred by you I suppose had reference to the arrangements in regard to the mortgages of the Detroit and Milwaukee? A—These were not made at that time. But we had given our personal acceptances.

Q—You informed the Board at home, I presume, that you had drawn a cheque for \$10,000? A—We did not mention the specific sum.

Q—Did you say in your explanation that you had drawn a cheque on the Commercial Bank? A—No; we simply said that we had rendered ourselves responsible, without explaining how.

Q—On the 16th December, 1858, what were your impressions or ideas as to the arrangements entered into with Mr. Rose for banking purposes. On whose behalf did you think the account was opened? A—There was no doubt at all that it was the Detroit and Milwaukee account.

Q—Although the name of the Detroit and Milwaukee Company was not used, and although you appeared before Mr. Rose with the resolution of the Board of the Great Western Company in England? A—You are going back now to December, 1857. I thought you spoke of 1858.

Q—I go back to the origin of the affair? A—And I say that the arrangement then made was to carry out what was ultimately given effect to in regard to the Detroit and Milwaukee Railway.

Q—Did anything take place between you and Mr. Ross in the interim? Between December 1857, and December 1858, there was a whole year. A—I do not think that anything took place between Mr. Ross and myself, though I frequently spoke of matters to Mr. Park.

Q—So as to change the character of the account? A—Nothing to change the character of the account. Nothing took place in the shape of a new arrangement, or to alter the first arrangement.

Q—Then I want to know whether, when you were asked by Mr. Campbell and Mr. Park, on the 1st of December, 1858, to give them something to put on record, showing what was the original position of the matter, you considered it was a Great Western Company's account? A—No, sir.

Q—And when you wrote this joint letter, you thought it was not? A—I never had any idea that it was; I always considered it a Detroit and Milwaukee account.

Q—Then what was this letter intended for? A—To give Mr. Campbell an assurance that he would get the balance from the Great Western Company's unexpended portion of the loans.

Q—It was to assure Mr. Campbell that the Great Western would pay? A—Yes; out of the unexpended portion of the loans.

Q—Your counsel argued to-day that it was given for nothing. Now, did you intend that it should be given for nothing? A—By no means. Mr. Campbell and Mr. Park said they wanted something to send to head-quarters, and the letter was given for that purpose.

Q—Do you remember meeting Mr. Ross on a subsequent occasion, when you asked for an extension of credit? A—Be good enough to give me the dates; we had to ask more than once.

Q—Look at this (producing a paper). Do you remember submitting that to Mr. Ross, Mr. Park, or anybody else connected with the Bank? A—I do. It was enclosed in my letter to Mr. Park transmitting some Detroit and Milwaukee notes and some Great Western bonds as collaterals.

Q—I read here—"Memorandum of liabilities and assets of the Great Western and Detroit & Milwaukee Railway Companies, to 31st December, 1859." Will you please tell me why you coupled these two railway companies together in that way? A—Because we were asked to do so by Mr. Park. He asked us to make out a statement of this kind to accompany the bills and collateral bonds, that Mr. Ross might be able to avail himself of it in discounting those bills. App'x (121)

Q—But why did he ask you to put into one account the business of what you seem to regard as two totally independent companies? A—I must refer you to Mr. Park. But I will give you my own idea on the subject, which is, that it was a mere matter of ways and means, intended to show the position the two companies would be in at a certain time.

Q—The object of it was to show how the accounts of the two companies united would stand. You commenced "Bills payable, D. & M., \$117,804." Then comes "Bonds for duties on iron, D. & M., \$79,344." Next we have "Interest coupons, 1st and 2nd mortgages, D. & M., \$71,000." After that, "Share interest bond coupons, D. & M., \$11,620." Then there is "Bridge rent, G. W. R., \$45,000." And so on, until mixing them together—

WITNESS—"Adding," not "mixing."

Mr. M. C. CAMERON—It is not a mixture.

Mr. ECCLES—If you add them together you must mix them. Well, adding them together you have a total of \$829,769. Against that you place assets of various kinds to the amount of \$1,055,000. So that up to December, 1859, you show your assets to be greater than your liabilities. Now what was your object in sending this memorandum to Mr. Ross and Mr. Park? A—It was demanded by the Bank.

Mr. M. C. CAMERON—It was wanted to aid them in discounting their notes in New York.

Mr. ECCLES (to witness)—Did you ever read the Report of the Committee of Investigation? A—It is perhaps scarcely necessary for me to say "Yes;" for I not only read it, but made many corrections in it. I did not, however, prepare the reply. I was in Canada, and the reply was prepared in London.

Q—Did not Mr. Brydges tell you that this was a correct copy of the original? A—Yes.

Q—At page 27, relating to instructions, I find a resolution printed,—"That it be left to the discretion of Mr. Brydges and Mr. Reynolds, after complete investigation of the Detroit and Milwaukee accounts, and after having made such arrangements with the creditors forming the floating debt as they may deem satisfactory, to close up existing sub-contracts for "works," and so on. Now, when did these instructions come out? Had you them before you opened negotiations with Mr. Ross? A—I believe so.

Q—These instructions are as complete and extensive as instructions could possibly be, and I am not surprised that under them you felt yourself authorized to treat in the manner you did. All letters you felt that you were required to give in explanation are to be found in this printed form, are they not? A—I have no doubt that all documents there printed will be found to embrace many of the originals put in.

Q—When you and Mr. Gray became the purchasers of the Detroit and Milwaukee road, did you at the same time purchase the rolling stock? A—I think we purchased the whole.

Q—It is said that there was a judgment existing in favor of some one, against the Detroit and Milwaukee Railway, and an execution out for the purpose of selling the stock, in case of the title not being good under the decrees. Do you know of any such judgment? A—I am not aware of it.

Q—Was any rolling stock purchased after the mortgages were given? A—Yes.

Q—There is a provision in the mortgage, I believe, that all rolling stock purchased after that time, should be purchased in the name of the trustees? A—There is.

Q—How was that rolling stock paid for? A—It was paid for out of the general assets, aided by the loan in England.

Q—Then in point of fact it was paid for out of the amount advanced by the Commercial Bank? A—Out of the Commercial Bank and out of the assets.

Q—What is the value of the rolling stock acquired after the giving of the mortgages? A—There appears to have been \$305,000 paid for rolling stock altogether, from January 1858, to March 1860. That was purchased in the name of the three trustees.

Q—You said in your examination-in-chief that none of the proceeds of the traffic on the Detroit and Milwaukee road were carried into the account of the Great Western? A—Not as a matter of regulation. There may have been by accident, but it was not as a matter of rule.

Q—On the 14th September, 1858, I find the D. & M. account debited with \$18,275, which was carried to the credit of the Great Western Railway Company? A—I can easily explain that. The Great Western had certain traffic receipts in the city of Detroit. They had an agent in that city, who received the money for the tickets sold, and paid it into the Michigan Insurance Company's Bank, from whence it was paid into the Commercial Bank at Hamilton. There seems to have been \$18,000 odd of the Great Western Railway Company's proceeds thus paid into the account of the Detroit and Milwaukee Company, and the cheque you speak of was intended to reverse the matter and set it right. It was simply to repay an erroneous deposit.

Q—Yes, it says that that money was to go on account of funds received and carried to the credit of the Detroit and Milwaukee road, when they ought to have been carried to the credit of the Great Western. On the 16th December I see there was a deposit by the Great Western Railway Company of \$40,000 on account of the Port Huron and Milwaukee Railway Company? A—The Port Huron and Milwaukee Railway Company ran opposite to Sarnia, and it was to be amalgamated with the Detroit and Milwaukee Railway when finished.

Q—Did the Great Western Company owe that Company \$40,000? A—Mr. Brydges and myself were authorized to expend \$40,000 on account of that Company, by the English Board of the Great Western.

Q—That was under separate instructions? A—Yes.

Q—And were you going to buy this road up as well? (Laughter.) You may buy up all the railways on this continent if you only take care to pay for them. You had a transaction, I believe, on account of the Detroit and Milwaukee Company, in which there was an agreement between that Company and the Port Huron and Milwaukee Railway Company. Now, what is the meaning of the £10,000 I see here? A—It is a payment made for securing land and water frontage required for the undertaking at Port Huron. The shareholders at home authorized us by letter to make the payment.

Hon. J. H. CAMERON—Let us have those letters.

Mr. M. C. CAMERON—You cannot have those letters.

Mr. ECKLES (to witness)—What was the payment for—tell us more precisely? A—The railway was partially graded, and the wharfrage at Port Huron was partly made. There were, however, several pieces of right of way along the line which would have reverted to the proprietors if certain payments had not been made. We, in virtue of instructions received, proceeded to protect that property from falling into other hands, and being confiscated.

Q—And these instructions, you say, were separate from the instructions in regard to the Detroit and Milwaukee? A—Quite distinct. They were received subsequently to the instructions relating to the Detroit and Milwaukee.

Q—I want to know whether your instructions as to the Port Huron and Milwaukee Company were larger or more extensive than those with regard to the Detroit and Milwaukee? A—They were of a different nature altogether.

Q—Out of what moneys were you to make that advance? A—The Port Huron and Milwaukee matter had nothing whatever to do with this case of the Detroit and Milwaukee. I would ask Counsel whether I am to answer that question?

Mr. M. C. CAMERON—It is a matter which they have no right further to enquire into.

Mr. ECKLES (to witness)—Very well; you made a general statement that you had paid the Detroit and Milwaukee to the full extent of the sums authorised by the Board, except \$700,000 and some odd dollars, which was paid to the Commercial Bank? A—Yes; all, except that, has been paid to the Company.

Q—You state, as a general answer, that you have paid to the Detroit and Milwaukee Company the whole sum of £250,000 sterling, except some \$700,000 paid to the Bank. Now, I want to know what impression you intended to convey by that statement? A—At the commencement of my examination I stated that there were two considerable items due by the Detroit and Milwaukee, for which their iron was held in pawn in New York; and we arranged, by drafts, to pay them out of the loan, without the intervention of the Commercial Bank.

Q—What were the amounts? A—\$100,000 to Duncan, Sherman, & Co., and \$150,000 to James Lee & Co.

Q—Was there any other bill drawn on account of the Company? A—There was a bill drawn by Duncan, Sherman, & Co., on the Board in London, for the payment of coupons. Since then the coupons held in London on the prior bonds have also been paid out of the loan.

Q—You have paid the Bank bills drawn in their favour to the extent of \$450,000. That is all the exchange you have drawn in their favour? A—Yes.

Q—And did you carry to their account the general traffic receipts of the Detroit and Milwaukee Road? A—Yes. They went in daily to the Windsor Branch.

Q—And when you speak of having expended the loans, you mean that you have paid out all the moneys, irrespective of the bills of exchange here enumerated, and irrespective of the profits of the line? A—Yes.

Mr. M. C. CAMERON (to witness)—Then all this money was expended on the Detroit and Milwaukee account? A—It was; and not on the Great Western Railway.

Mr. M. C. CAMERON—Here is a letter which I will read from Mr. Ross to Mr. Brydges, on the 26th of May, 1859:—

[Letter of 26th May—Appendix 108, page 72.]

Mr. H. O. Becker called, and examined by Mr. M. C. Cameron.

Q—You are a Director of the Great Western Railway, I believe? A—Yes, and I have been so since May, 1857. I cannot tell exactly when I was first put on the Finance Committee, but I have been a member of it for three years at least.

Q—Mr. Reynolds says that it is the practice to have laid on the table at every meeting the pass-book between the Great Western and the Commercial Bank; is that so? A—It is. The object of it is to have the balances checked.

Q—Were you aware, as a member of the Board, that the Great Western Company were said to have an account with the Commercial Bank, on account of the Detroit and Milwaukee Company? A—I never heard

of such a thing. The first time I heard of any claim being made on the part of the Bank on the Detroit and Milwaukee account, arose from a letter written by Mr. Ross to the Secretary, Mr. Stephens, in October 1859.

Q—Then the Board, as a Board, were not aware of any transactions of this kind? A—If the Board had been aware of them, I as a member of the Board would certainly have known of them. There were no discussions or minutes at any of the Board meetings, nor anything said or done showing the cognizance of the Board as to any such transactions.

Q—You are aware that Mr. Brydges and Mr. Reynolds are the President and Vice-President of the Detroit and Milwaukee Railway Company? A—Yes; I was present at their election as such. The Detroit and Milwaukee Company had a distinct existence, and it was impossible for it to have been merged into the Great Western Company, as a matter of law or of fact.

Mr. GALT (to witness)—Do you not know that the instructions from England gave Messrs. Brydges and Reynolds the sole control of the moneys advanced by the Great Western? A—I understood from the beginning that the loan of the shareholders was to be expended under their special supervision.

Q—Then they represented the Great Western so far as that was concerned? They had unlimited authority as to the expenditure of this loan, had they not? A—Their instructions were to superintend the expenditure of the loan.

Q—Are there not six Directors of the Great Western Railway Company out of its Board of nine Directors also Directors of the Detroit and Milwaukee Railway Company? A—It was so, commencing in January, 1858.

Q—Shortly after the commencement of the account we are now hearing about? A—Yes.

Q—Were you in the habit of attending the meetings of the Detroit and Milwaukee Railway Company? A—I attended those meetings before the act was passed allowing proxies to be used, and afterwards I did not attend them so frequently.

Q—Had not those six Directors of the Great Western the sole control of the Detroit and Milwaukee? A—Practically, the affairs of the Detroit and Milwaukee were managed by Messrs. Brydges and Reynolds. I do not know precisely what their duties were; but I should say that, speaking broadly, the intention of the stockholders was, that there should be a preponderating influence in the Detroit and Milwaukee Company, for the purpose of controlling the expenditure of their loans.

Q—And in whose hands was the direction of the affairs of the Company to be vested? Were not Messrs. Brydges and Reynolds expected, in consequence of the position they held in the service of the Great Western, to exert the preponderating influence you speak of over the affairs of the Detroit and Milwaukee? A—So far as the Canadian Board of Directors of the Great Western are concerned, we had very little to do with the loan. It was advanced by the stockholders, and, as I understand it, Messrs. Brydges and Reynolds had entire scope and authority to see to its expenditure.

Q—These gentlemen being respectively Managing Director and Financial Director, it was thought that they would carry out the views of the stockholders in the matter? A—Just so. I should like now to tell the gentlemen of the jury that the picture Mr. Eccles drew about myself, the tin box, and the proxies, was entirely an imaginary one. (Laughter.)

Hon. J. H. CAMERON—I should like Mr. Beecher to say whether he did not attend a meeting with his tin-box, which, he said, held two million of proxies?

WITNESS—I did attend a meeting of shareholders, at which, I said, I held certain English proxies.

Hon. J. H. CAMERON—To the extent of two millions of pounds, were they not? A—More than that, I believe.

Q—And were not these proxies in a tin-box? A—No; they were on the table. (Laughter.)

Hon. J. H. CAMERON—Then the only difference is, that instead of being in a tin-box, they were on the board-room table. (Laughter.)

Mr. Frederick W. Gates called, and examined by Mr. M. C. Cameron.

Q—You are a director of the Great Western Railway? A—I am; and also a merchant in the city of Hamilton. I have been a member of the board since June, 1857. I do my banking business with the Commercial bank.

Q—From the period when you first became a member of the Board, up to October, 1859, did you ever hear of a claim on the part of the Commercial Bank against the Great Western Railway, on account of the Detroit and Milwaukee Railway? A—I think I heard of it for the first time on the 1st September, 1859. I heard of it then in a note Mr. Park wrote to me, in which he spoke about a letter of guarantee.

Mr. M. C. CAMERON—Did he so designate that letter in his note?

Mr. GALT—Better let us have the note itself.

WITNESS—I would rather not give it, as it is a friendly note to myself. But I will read that portion App'x of it which relates to this matter. Mr. Park writes: "The Great Western collateral bonds for \$200,000 of (185) the D. & M. loan, remain in the hands of the Bank of Commerce, until the loan is paid. We have a letter of guarantee of the G. W. R., for all the open balance of the D. & M." That note was dated on the 27th August, 1859. page 88.

Q—And the matter was never brought officially before the Board? A—Oh no. I have met Mr. Park frequently, and Mr. Ross occasionally, but not often, though I knew him well. He was aware that I filled the office of Director of the Great Western Railway.

Q—Did they make application to you on the subject? A—Not prior to the note I have read.

Hon. J. H. CAMERON (to witness)—Although you are a director, you are not in any way a managing director of the Great Western? A—No, Sir.

And you were not therefore in the habit of conversing with parties on Great Western business? A—Not generally.

Q—If you met with a contractor, for instance, it is not at all likely you would converse with him on the subject of the Great Western? A—No. But upon the occasions when I saw Mr. Ross, the Great Western was generally the subject of conversation. I did not often see him.

Q—Did you know, prior to the period you have spoken of, as to the receipt of Mr. Park's note, anything about these \$200,000 bonds? A—Yes; I was present at the meeting of the finance committee when it was arranged.

Q—Did you know anything about the joint letter of Messrs. Brydges and Reynolds? A—I made enquiries about what was termed their letter of guarantee. But I do not know when it was I made the enquiry, or from whom it was. I had been away for nearly two months. I think it probable that I may have spoken to Mr. Young about it.

Q—When did you first see a copy of that letter? A—Mr. Ross shewed me the original, I think, in January, 1860.

Q—Did you, as director, ask for explanations, in regard to that letter, from Messrs. Brydges and Reynolds? A—Explanations were given.

Q—What explanations were given to justify their writing such a letter, without communicating it to the Board? A—They stated that the Commercial Bank required for financial purposes this \$200,000.

Q—But I am now asking about the letter of guarantee? A—They said they had been unable to give exchange to the Commercial Bank; and the Bank wanted something to shew the nature of the arrangement which had been made.

Q—What arrangement? A—The arrangement for carrying out the matter of the loan which the shareholders of the Great Western had agreed to advance to the Detroit and Milwaukee.

Q—But this letter does not say anything about the arrangement for carrying out the loan. It does not refer to the loan in any way whatever? A—They said that they had not been able to draw exchange on London—that the London Board desired they would abstain from drawing exchange for a while,—and that the Commercial Bank—(witness hesitated). Well, as I recollect it, what Mr. Reynolds said to-day, in the witness box, was pretty much what was said at the Board.

Hon. J. H. CAMERON—But I want you to tell me what your present impression is in regard to the explanation then given of this document not appearing in any way amongst your proceedings?

Mr. M. C. CAMERON—You must not ask what his impressions are. If he tells you he cannot recollect what was said, that is sufficient.

Hon. J. H. CAMERON—If Mr. Gates does say he cannot recollect, I shall be satisfied. But he has not stated that yet.

Witness—What I say is, that Mr. Reynolds' explanation to-day is almost in substance what took place at the Board meeting.

Hon. J. H. CAMERON (to witness)—Was there any explanation given why this letter was not communicated to the Board? A—I cannot recollect of any such explanation having been given.

Q—Was there a copy of the letter asked for? A—Copy was got.

Q—Are you aware that there was no copy kept, but when the copy was got, it was procured from somewhere else? A—I know that at one period a copy was produced, but I do not know where it came from.

Mr. Richard Jason called and examined by Mr. M. C. Cameron.

Q—You are a Director of the Great Western Railway, are you not? A—I am. I am also a merchant at Hamilton. I do my banking business in part with the Commercial Bank. I have been Director of the Great Western since 1849. Mr. Gill is now the President, and Mr. Young, the Vice-President. They are both in England.

Q—Can you tell us when it was that you first heard of the claim against the Great Western Railway Company by the Commercial Bank as being responsible to them for the account of the Detroit and Milwaukee Railway Company? A—In the month of January, 1860.

Q—You were not present, I believe, at the meeting held in Hamilton in November, 1859, when the matter was discussed? A—No. I was in England at that time. I left here for England in June, and up to that time I had not heard of it. I heard of it in London, for the first time, early in 1860. I was a personal friend of Mr. Ross, the Manager of the Commercial Bank, and I saw him frequently. I saw him in London early in 1860, when he mentioned the subject to me; I am also well acquainted with Mr. Park, the late Manager of the Commercial Bank at Hamilton. But he never said anything to me on the subject.

Q—You are also a member of the Finance Committee. Tell me now, what was the practice in regard to the pass-book? A—The practice was for the pass-book to be laid on the table, and also a statement of the Bank account, at each meeting. I never saw the pass-book of the Detroit and Milwaukee laid on the table. I once made enquiry about the pass-book; but that was in London, England.

Q—Did Mr. Ross at any time show you the account? A—Yes; in London, in 1860.

Q—Did he ever show it you at any place else? A—He did not; and even then I was not desirous of looking at the account, as I had nothing to do with the Detroit and Milwaukee Railway Company. I saw at that time the heading of the account, and was struck with the manner in which it was framed, considering it to be incorrect. I asked Mr. Ross if it agreed with the pass-book. The pass-book was sought for and found, when it was discovered that the pass-book was not headed in the same way as the account then and now presented. Mr. Ross acknowledged that the pass-book was not kept in the same way. The discrepancy was seen and acknowledged at once.

Q—Messrs. Brydges and Reynolds had no authority, I believe, to open such an account as this on behalf of the Great Western Railway? A—They had not.

Hon. J. H. CAMERON (to witness)—While you were on the Finance Committee, did you see any orders or drafts drawn by the Great Western Company's officers on account of the Detroit and Milwaukee? A—I did not.

Q—They were never brought before the Great Western Board then? A—No.

Q—Then you had never anything to do with them? A—No. But I may say that I understood certain moneys were voted by the English shareholders to the Detroit and Milwaukee, to be expended under the direction of Messrs. Brydges and Reynolds, and it became our duty to see that the Company had proper security.

Q—But you never had security. You never supervised the drawing of the drafts, you say; and from the time the mortgage was given in January 1858, you as a Director of the Great Western never did anything in regard to the expenditure of this money? A—I never did. But I was only there three or four months of the time.

Mr. Henry Fosley called, and examined by Mr. M. C. Cameron.

Q—I believe that at one time you were a clerk in the Commercial Bank at Hamilton? A—I was ledger-keeper there.

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Q—Tell us what you had to do with the Detroit and Milwaukee account? A—For three months in 1858 I had to make the entries of the cheques and deposits. The account now produced is that of the Detroit and Milwaukee Railway. The heading is in my handwriting. It is the "Detroit and Milwaukee Railway."

See App'x.
(302).

Q—Where did you get that heading from? A—From the general ledger.

Q—Did you copy it correctly? A—I ought to have done so; but I will not say positively.

Q—Were there not several accounts of gentlemen connected with the Great Western Railway kept in the Bank at that time? Had not the Solicitor, as Solicitor, his account there? A—Yes; here is an account of Mr. Irving, as Solicitor of the G. W. R.

Q—And is there not also an account with the Bank of the Great Western Railway itself? A—There is.

Q—The heading of the pass-book used would be in accordance with the ledger, I presume? A—Yes.

Q—When did you leave the Bank? A—In November last. For sometime previous to that I was in Toronto and Brockville. I did not keep the books for the Commercial Bank over three or four weeks.

Hon. J. H. CAMERON (to witness)—You say that the heading of the account is in your handwriting? A—It is.

Q—And you ought to have carried it forward as it appeared in the previous book? A—I ought.

Q—You did not alter the heading from as it appeared in the previous book, to what it is here, by direction of any one, did you? A—I did not. And any alteration that was made, arose entirely from inadvertence.

Mr. G. H. Mingays called, and examined by Mr. M. C. Cameron.

Q—You are in the employment of the Great Western Railway Company, as Paymaster, I believe. A—I am.

Q—And what became of the funds you obtained from the cheques produced, relating to the Detroit and Milwaukee Railway? A—They were paid on account of wages and salaries for the Detroit and Milwaukee Railway Company. They were not used in any manner for the purposes of the Great Western Railway Company.

Hon J. H. CAMERON (to witness)—Were you not, at the time spoken of, an officer of the Detroit and Milwaukee Railway Company? A—Yes, Sir.

Q—How soon was it after the mortgage was given, that you became an officer of the Detroit and Milwaukee Railway Company? A—I did not become an officer of the Detroit and Milwaukee until after the Board was organized. I still remain an officer of the Detroit and Milwaukee.

Q—And the disbursements made by you on account of the Detroit and Milwaukee were kept—how? A—Separately.

Q—The office in Hamilton is nominally the office of the Detroit and Milwaukee, I believe? A—It is.

Mr. Archibald McLean called and examined by Mr. M. C. Cameron.

Q—Are you not connected with the Detroit and Milwaukee Railway Company? A—I am. I have been so connected with it since 1850. I think it was in January, 1850, the connection first commenced.

Q—Where was the account of the Company kept? A—At the Commercial Bank of Canada at Windsor. I am the Cashier of the Company, and made the deposits there.

Q—When the traffic receipts exceeded the expenditure, what became of the balance? A—I am not aware.

Mr. W. K. Muir called and examined by Mr. M. C. Cameron.

Q—You are Superintendent, are you not, of the Detroit and Milwaukee Railway Company? A—I am, and have been so since 1858.

Q—Do you know what became of the monies received from the Commercial Bank on the Detroit and Milwaukee account? A—I know how part of them was used. I am aware that the money Mr. Mingays received, as paymaster, was paid away as wages.

Q—The Detroit and Milwaukee Company has always been kept distinct from any other Company? A—It has.

Mr. C. J. Brydges called and examined by Mr. M. C. Cameron.

Q—You are the Managing Director of the Great Western Railway Company? A—I am. I have been so for something over nine years.

Q—You are also at present connected with the Grand Trunk Railway? A—I am.

Q—You were one of the officers entrusted by the Shareholders of the Great Western with the expenditure of the loan advanced by them to the Detroit and Milwaukee Railway? A—Yes; and I received my instructions in reference to it in London.

Q—What was it understood the loan was to be at the time you received your instructions? A—£150,000 sterling.

Q—Were you authorized to exceed that in any manner? A—No.

Q—Were you present with Mr. Reynolds at any meeting when an arrangement was entered into or spoken of, with Mr. Park, of the Commercial Bank, with reference to Detroit and Milwaukee matters? A—I was present at the interview which took place at the office of the Commercial Bank in Hamilton.

Q—What took place at that time? A—When I returned from England, in December 1857, I had one or two discussions with Mr. Park about the loan which had been granted by the Great Western Company, for the purpose of completing the Detroit and Milwaukee line. In the course of these discussions something was said about the drawing of exchange on England for the amount required, and Mr. Park suggested that it would be an advantage to the Bank to have the drawing of that exchange. Out of that also grew the suggestion that it would also be an advantage to the Bank to have a circulation of their notes in the State of Michigan. And that was the way in which the matter came about.

Q—Do you know how often you saw him before the final conclusion was arrived at? A—I cannot say positively, but it was certainly two or three times.

Q—You were not present at Toronto when Mr. Reynolds, Mr. Ross and Mr. Park met in that city? A—I was not.

Q—Had you any conversations with Mr. Park or Mr. Ross during the year 1858, on the subject of the Detroit and Milwaukee account? A—Yes; several conversations with Mr. Park. We generally talked with reference to the expenditure going on in Michigan. The progress of that expenditure formed the subject of conversation.

Q—Tell us about any arrangements that were made about opening an account? A—At the end of 1857, after returning from Detroit, where I had been to make an examination of the affairs of the Company, we went to Mr. Park with a paper showing the mode in which the expenditure was to be carried on, and the means at our disposal. The schedule produced to-day, marked A, is a copy of that paper. The object of taking that to Mr. Park was to show him the amount and nature of the expenditure we should have to make in Michigan, and the mode in which it was to be provided for. The paper shows what the estimate is of the net receipts, and the balance was to be provided for by bills on London; the bills to be drawn on the Great Western Railway Company, as part of the loan of £150,000 sterling.

Q—Were you in this country during the whole time between the opening of the account in 1857, and the giving of the letter of guarantee in 1858? A—I was.

Q—And during that period was a further loan granted by the Great Western to the Detroit and Milwaukee? A—Yes; £100,000 sterling was voted in October 1858; and I was one of those who were authorized to see to its expenditure.

Q—Had you instructions to contract any debt beyond that? A—Not in the least.

Q—What was your object in signing the letter of guarantee? A—Mr. Reynolds came to me about the time the letter was written, and said that he had had some discussion with the officers of the Bank, who had asked him for exchange on London. He told them—so he informed me—that in consequence of communications from the London Board, that they did not wish exchange to be pressed upon them at present; it would be impossible to draw bills just then. They then requested that some assurance should be given of the balance of the authorized loans being forthcoming. It was under these circumstances that the letter of guarantee was written and signed.

Q—Do you know whether these loans have been expended by the Great Western on account of the Detroit and Milwaukee Company? A—They have.

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Q—Did you converse with the officers of the Bank in regard to your going beyond the second £100,000 advanced by the Great Western to the Detroit and Milwaukee? A—I had several conversations with Mr. Park on the subject, and I also conversed with Mr. Ross about it, in June 1859, when we met at the Rossin House. In the course of our conversation on that occasion I said that on no account could we (speaking for Mr. Reynolds and myself) go beyond the authority we had received, and which at that time embraced the two votes from the shareholders of £250,000. I always gave them to understand that.

Q—You went to England, I believe, endeavouring to get further aid to the Detroit and Milwaukee? A—I did, but I failed in success.

Q—I believe it was asserted in a pamphlet, was it not, that the Great Western Railway Company were very much indebted to the Commercial Bank? A—It was stated in a pamphlet issued in London that the Company were much indebted to their bankers in Canada.

Q—Their bankers in Canada were the Commercial Bank? A—Yes.

Q—Did you give an answer to this assertion at any public meeting? A—At the half-yearly meeting I replied to some statements contained in the pamphlet, and made answer to that portion which spoke of our indebtedness to the Bank.

Q—Was any officer of the Commercial Bank present at that meeting? A—Mr. Campbell.

Q—And what was the nature of your statement? A—I said that the assertion that the Great Western Company were indebted to their bankers was entirely untrue.

Q—I suppose the matter was a good deal discussed? A—It was.

Q—While you were in London you gave two promissory notes to Mr. Campbell, of the Detroit and Milwaukee Railway Company? A—I did so. That was the end of November, 1859. The meeting of which I page 98.

Q—How did you come to give these notes? A—Mr. Campbell was desirous of getting something with which to cover the Bank's account in the London Joint Stock Bank; and as our attempts to obtain a further advance to the Detroit and Milwaukee were not successful, he asked me to give the notes of the Detroit and Milwaukee to cover the account of the Commercial Bank in London.

Q—These notes were given on the account for which they are now suing? A—They were.

Q—I see that in signing the cheques you used no official designation. How is that? A—Because they were not given on the Great Western account.

Q—Was there a change made at any time in the cheques you used for drawing money on the Detroit and Milwaukee account? A—Yes; a change was made about December, 1858. It was brought about in this way:—During 1858, there had been several discussions with the Commercial Bank about the opening of an agency at Windsor, so that they might be in a position to do all the business of the Detroit and Milwaukee. As soon as they were ready to open that branch, the whole of the deposits of the Detroit and Milwaukee were made there, and the cheques were drawn in conformity with the ordinary form of railway cheques, being signed by the directors and officers. The second batch of cheques now produced are those formal kind of cheques.

Q—Do you recollect meeting Mr. Ross in New York on your return from England? A—I do. It was ⁽¹⁸⁷⁾(179) late on the evening of my arrival—ten o'clock at night, I believe. He came into the hotel, and said he had ⁽¹⁸⁰⁾(189) already heard the result of the meeting in London, on the 22nd October, when we attempted to raise more ⁽¹⁸¹⁾ money for the Detroit and Milwaukee. We then had a discussion on the matter, but the conversation turned ⁽¹⁸²⁾ principally on the \$200,000 of Great Western bonds which the Commercial Bank were then holding.

Q—You were complaining of their holding these bonds? A—We had done so. And I told Mr. Ross at that time that the Bank continuing to hold them had the effect of prejudicing our operations in the way of getting a further advance.

Q—Did you see Mr. Ross in Kingston in reference to this matter? A—Yes; early in January, 1860.

Q—With what object? A—It was this:—Mr. Ross came to Hamilton several days after meeting me in New York, to see us in reference to the Detroit and Milwaukee account. He said it would be impossible for the Bank to continue its advances unless the account was covered, and as we told him that we could not possibly do anything towards relieving the account at that time, he suggested that we should make arrangements, if

possible, with some other Bank to take the Detroit and Milwaukee account, so as to take from them in some measure the pressure they laboured under. These overtures, however, came to nothing. We communicated the fact to Mr. How, and afterwards saw him at Kingston.

Q—When you saw him at Kingston, what passed? A—Did they make a claim against the Great Western?

A—The letter of the 16th December, 1858, was spoken of.

Q—How did they speak of that letter? A—They called it a letter of guarantee for advances made.

Q—Did they make an offer of terms to you, if you would make a settlement? A—They said, if we would admit that under this letter the liability was a liability of the Great Western, they would let the account go on. But we said we could not think of consenting to any such thing. The suggestion was then made for the Great Western to draw bills on behalf of the Detroit and Milwaukee, which they said might be at long dates and be renewed to suit ourselves. But this also we declined.

Q—Did they say anything as to the desirability of keeping quiet? A—They said that the matter need not be known, so that time might be given for raising money on account of the Detroit and Milwaukee.

Q—And you declined all their propositions? A—Certainly. We left the matter where it was before.

Q—You declined to consider the Great Western liable under this letter, and why? A—Because it never was intended to make them liable for an unlimited amount of advances.

Q—It was intended only to apply to the loan? A—To assure them that they would get the balance of the loan.

Q—And did they get it? A—They got a large sum; I forget the precise amount.

Q—Did they get as much as \$358,000? A—I should think they did.

Q—Did Mr. Campbell, whilst in England, require you to give more than the notes you gave him of the Detroit and Milwaukee? A—No. I saw Mr. Campbell many times after the meeting in October, when it was found impossible to get a further loan, and when we were trying to effect an issue of preference shares of the Detroit and Milwaukee.

Q—And that did not succeed either, did it? A—It did not.

App'x

(175) (176)
(177)
page 109
and 110.

Q—You say that in drawing the red cheques here produced, you did not draw them as officers of the Great Western, or to make them in any way liable? A—Certainly not; nor were we at that time Directors of the Detroit and Milwaukee; so that it was a personal matter.

Q—Mr. Reynolds has stated that the mortgages which the trustees held on the Detroit and Milwaukee Railway were not beyond the amount of the same lent by the Great Western? A—That is the case.

Q—The Great Western only claim to be creditors of the Detroit and Milwaukee to the amount of their loan and interest? A—Only to the amount of the loan and interest upon it.

Q—Do you know as a fact how the funds which were chequed out from the Bank on the Detroit and Milwaukee account were used? A—On the Detroit and Milwaukee line.

Q—Not on the Great Western? A—Certainly not.

Q—You entered into the negotiations, did you not, for the opening of the account with the Great Western Railway? A—I did.

Mr. M. C. CAMERON—This is your letter:

[See Letter, 14th August, 1857, Appendix, No. 55, page 43.]

(To witness)—How was the balance due to the Bank of Upper Canada at that time discharged? A—A bond was given, which was retired by exchange on London.

Q—Have you any idea of what the average weekly traffic receipts of the Detroit and Milwaukee would amount to during the time this account was running? A—From \$12,000 to \$15,000.

Q—Then it would be a pretty considerable account? A—Yes; it was a large account, and it would be to the advantage of the Bank to have such an account.

Hon. J. H. CAMERON—For my part I cannot see the advantage to them of paying their money out, and not getting it back again.

Mr. M. C. CAMERON (to witness)—Did you ever bring this letter of guarantee before the Board of Direc-

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tors in Canada? A—No. It first appeared before them in December 1850, in consequence of a claim then made by the Commercial Bank.

Q—What is the number of employees connected with the Great Western Railway? A—Something over 2000, I think.

Q—Have the Company paid a dividend lately? A—Not since last year.

Hon. J. H. CAMERON—They are going to pay one this year.

Witness—They will pay one-and-a-half per cent. upon the half-year. They paid nothing on the last half-year, in consequence of depressed trade.

Mr. M. C. CAMERON (to witness)—Do you recollect at any time an application being made from the officers of the Commercial Bank to the Great Western Railway for collateral bonds to the Detroit and Milwaukee notes? A—Yes; there were \$200,000 of such bonds in May 1850, and there was one bond given before that. I signed the notes of the Detroit and Milwaukee Railway Company as President of the Company.

Q—In giving the Great Western bonds, were they considered merely collateral? A—The \$200,000 were most certainly.

Q—Mr. Campbell, I believe, became possessor of some stock of the Detroit and Pontiac Railway. Did he say what his object was in getting that stock?

Hon. J. H. CAMERON—That is not the way to ask the question. Did he make any communication as an officer of the Bank?

Witness—I believe he did make a statement as officer of the Bank. I believe it was made at the office in Hamilton.

Hon. J. H. CAMERON—Was it said as an officer of the Bank?

Witness—I did not understand that it was for the Bank. He was there with Mr. Park, however, the Manager of the Bank, at Hamilton.

Hon. J. H. CAMERON—But did you understand that he was there on behalf of the Bank?

Witness—I understood that he was speaking of holding this stock on behalf of the Bank.

Mr. M. C. CAMERON (to witness)—Then state what took place? A—I had been absent at Quebec; and, when I returned, he came to see me, and said he had been waiting for me for a day or two. His object, he said, in seeing me was to say that he had become possessor of some stock in the Detroit and Pontiac Company, and the possession of that stock would enable any one to destroy the Detroit and Milwaukee Railway altogether. And he used this remark, as I understood, that the Great Western were in danger of losing all the loans they had advanced to the Detroit and Milwaukee; and that we must do something, or the Great Western security would be lost.

Hon. J. H. CAMERON—You took it for a threat, then?

Witness—I did.

Mr. M. C. CAMERON (to witness)—Did you refer to the Commercial Bank in that conversation? A—Yes; in connection with what I have already stated.

Q—Tell us what you said in relation to the Commercial Bank? A—I cannot recollect the exact words I used.

Q—Was there anything said about Detroit and Milwaukee bonds held by the Southern Michigan Railway? A—There was. \$200,000 of these bonds were held by the Michigan Southern Company as security for a debt which the old Detroit and Milwaukee Company were owing them. Mr. Campbell spoke of having attached these \$200,000 bonds in the hands of the Michigan Southern on account of a claim he had of a large amount of interest bonds against the Detroit and Milwaukee. I said I was surprised at his attaching these \$200,000 bonds, because I had agreed in London to hold them and to give them to the Bank as soon as I got his security for the £50,000 of notes I gave him in London.

Q—Did they get these bonds? A—The Commercial Bank did get them.

Q—Then they had \$200,000 of their claim secured by these bonds? A—They had, and still have.

Q—Had you authority from the Great Western shareholders to incur liability on their account? A—I had not.

Q—Your instructions were precise in reference to dealing with other companies? A—They were.

Q—There has been a statement produced which was given to Mr. Park in May or June, 1850, showing the assets and liabilities of the Great Western and the Detroit and Milwaukee. Do you know anything about it? A—It was asked for by the Bank to show the position of the two companies, and it was given also with a view to facilitate the negotiation of the Detroit and Milwaukee notes, with the Great Western collateral bonds.

Q—You held, on account of the Detroit and Milwaukee liability to the Great Western, \$500,000 of second mortgage bonds of that Company? A—I did. They were issued at various times in payment of the debt of the Detroit and Milwaukee Company.

Q—A short time before this arrangement was entered into between you and the Commercial Bank, some of the officers of the Great Western Company, I believe, had drawn exchange for a large amount on England, which was repudiated? I speak in reference to the Southern Railway? A—There were £200,000 of bills not accepted.

Q—I suppose you had this in your mind—

Hon. J. H. CAMERON—I should rather fancy Mr. Brydges had it on his mind! There was terrible battle on the subject between him and Mr. Buchanan.

Mr. M. C. CAMERON—And the officers engaged in the transactions were dismissed by the Shareholders.

Hon. J. H. CAMERON (to witness)—And I believe the reason of that was that they had no authority whatever to spend the money? A—Yes.

See the
Red Book
filed.

Q—Look at pages in the red book from 65 to 70, and tell the Court whether the statement therein contained, in regard to matters connected with the Detroit and Milwaukee line is not yours. A—It is. The statement is mine, and it is correct.

Q—Going back to 1857, at what time in the autumn of that year did you arrive from England? A—At the end of November. I must have reached Hamilton on the last day of November. I was in Hamilton a fortnight.

Q—During the time you were in Hamilton, did you make any arrangements with the Commercial Bank? A—I did not.

Q—On leaving Hamilton, how long were you absent from the city? A—Four or five days perhaps together.

Q—Do you recollect when you returned? A—I cannot say. But I think I must have been back by Christmas day.

Q—Do you recollect how many days it was after your return that you went to see Mr. Park in reference to this account; and did not Mr. Park on the same day telegraph to Mr. Ross, with a view to arranging an interview with Mr. Reynolds? Do you remember if it was the next day or the day after that Mr. Reynolds went to Toronto? A—I think it was two or three days after.

Q—You were not yourself present at the interview in Toronto? A—I was not.

Q—When Mr. Reynolds came back from Toronto, did he communicate to you the terms on which the account was to be opened? A—Yes. He told me that there was to be an account opened for the Detroit and Milwaukee expenditures in our joint names, because we were not then Directors of the Detroit and Milwaukee Company, and the statement set out in the schedule referred to, was to be taken as the basis.

Q—Do you mean to say that there was to be a credit account? A—It could hardly be called a credit account, because there were to be bills drawn on London.

Q—How did you look upon the matter yourself—that you were opening an account on behalf of the Great Western, the Detroit and Milwaukee, or yourselves? A—Certainly not the Great Western.

Q—Whatever you were to draw, it was on behalf of the Great Western, I suppose? A—The bills on England were on the Great Western.

Q—You and Mr. Reynolds had authority with the Great Western Board in London to transact this business without reference to the Canadian Board? A—We had.

Q—So you must have drawn for the £150,000, in the first place, and subsequently for the £100,000

without one of the bills passing through the hands of the Finance Committee or being known to the Canadian Board? A—That is not exactly the case. The bills of exchange drawn on the London Board were drawn in this country without reference to the Finance Committee or the Board of Direction; but they came before them by way of return, when they had been accepted in England.

Q—You continued drawing the cheques in this way (showing witness a cheque) from that period to the early part of December, 1858? A—Yes.

Q—And then they were changed in this manner (showing witness another cheque); and why? A—I think I told you.

Q—There must have been some mistake, because the branch was not then opened? A—It was all done in reference to the opening of the branch, which was expected to be opened some months earlier, as was promised.

Q—Give me the application of March, 1858. At that time you and Mr. Reynolds applied to the Bank for a credit on the Detroit and Milwaukee account? A—We did.

Q—And in that application you also spoke about a Great Western credit—about one account going up as the other came down? A—Yes.

Hon. J. H. CAMERON here read the letter, and the reply thereto, as follows:

[See Appendix Nos. 72 and 73, pp. 52 and 53.]

(To witness)—Did you not notice in this letter that the Commercial Bank had placed these accounts together? A—I did not so understand it.

Hon. J. H. CAMERON—Your attention was not called to it at all? Where is your answer? I will read it:—

[Appendix No. 75, page 54.]

(To witness)—Between that period and the middle of December, 1858, as I understand, no conversations or interviews took place between you and Mr. Ross or Mr. Park in reference to any claim of the Commercial Bank on the Great Western? A—No; I had seen them. But I cannot refer to any particular conversation.

Q—Did you read what you call the letter of guarantee before signing it? A—I did.

Q—You observed then that there was nothing stated in the letter about a limit of credit? A—Yes.

Q—You knew that there was an overdrawing credit on the account? A—Yes.

Q—And you also knew that the account had been overdrawn? A—Yes.

Q—Do you say you noticed that there was no reference made to any time within which the Great Western was held liable for all overdraft? A—I knew that the letter was worded in this way.

Q—And how did you understand it to apply—simply to the balance of the loan about to be drawn from England or not? A—That was well understood throughout between ourselves and the Commercial Bank. I had several interviews with Mr. Park, and whenever the question was talked of, it was always in reference to the responsibility of the Bank.

Q—Was there never a conversation with you and Mr. Park about the Great Western covering the overdraft of the Detroit and Milwaukee? A—There was never such a conversation. As I have already explained, the Bank wanted more exchange on London, and the intention of that letter was to assure the Bank that they should get the balance of the loan as rapidly as possible.

Q—But would it not have been more natural, in that case, to have said, "We will furnish you with exchange as speedily as we can," instead of saying, "This Company holds itself responsible for all overdraft on the D. & M. Company's account?" When they were pressing you for exchange, why did you say that the Great Western would be responsible for all overdraft? A—I understand the nature of all you say; but I must remark that the intention of that letter was not at all what you would have it to be. Why it did not occur to me to make this letter different from what it was is, that at the time the second loan was granted, we made out a statement, which was sent to London, shewing that at the end of 1859 it was expected that the Detroit and Milwaukee account would be about balanced. We were, however, disappointed in our expectations in regard to the traffic of the line. At the time the letter was written, it was supposed that the unexpended portion of the £100,000 loan would suffice to balance the account.

Q—In December 1858, you wrote a letter, in which you make the unreserved statement that you hold

yourself responsible for all overdraft. Now, what did you then suppose you were holding yourself responsible for—the moneys paid out for the construction of the road? A—For the balance of the loan.

Q—But "all overdraft" does not mean "the balance of the loan"? A—In the statement I am referring to, we expected that the traffic of the line and the unexpended portion of the loan would make up the balance.

Q—You say that you will be liable for all overdraft. At any rate the Great Western held itself responsible up to the 16th December? A—Very well.

Q—And in that account there were a lot of notes which had become due previously. Were these notes of the Detroit and Milwaukee Company to be paid out of this loan? A—The notes you speak of were given during the construction of the works.

Q—Were these payments from 30th December, 1857, to 16th December, 1858, which were charged against the Detroit and Milwaukee Company on this account, which left an overdraft of \$358,000, considered by you as payments authorized by the Great Western? A—I cannot say, until I see the notes.

Q—Before you gave the letter of guarantee, did you make an examination with a view of ascertaining what the overdrafts consisted of? A—A statement was made out before the letter was written, showing the amount of the overdraft, and the liabilities and expected assets.

Q—You do not answer my question. I ask, did you make an examination of the account before you signed the letter, to see if these were all charges which should come out of the Great Western loan? A—I did not examine it for that purpose.

Q—For any other purpose? A—I had examined it from time to time.

Q—Then are you prepared to say you were aware that all the payments made on this account are properly chargeable to the Great Western? A—I cannot say.

Q—Then this letter was given before you knew whether the Great Western was chargeable with all the payments or not? When the letter was given, was it not thereby intended that the overdraft of \$350,000 should be paid by the Great Western? A—By the loan.

Q—But there is nothing said in the letter about the loan. Supposing the coupons to the bonds had eaten up the loans, do you think the Great Western would still have been responsible? A—I do not think they would have been responsible.

Q—In which case this letter would have been a mere piece of waste paper. I understood you said that from the 16th December the sum of \$358,000 has been paid? A—I believe that more money than that has been paid.

Q—But you forget that a great deal more money has been drawn out than there has been money paid in? A—Just so.

Q—And the account, instead of being diminished, kept perpetually increasing? A—Yes; it did rise afterwards.

Q—You say that an amount less than the sum of \$358,000 was subsequently paid in on the account? A—Yes.

Q—Was that money subsequently paid in by virtue of any arrangement between you and the Bank, on account of the overdraft existing on the 16th December, 1858? A—It was not. It was paid in as part of the general account.

Q—I believe there was a large quantity of rolling stock purchased by the trustees, with these monies—to the extent of about \$300,000, I believe? A—No rolling stock was bought specially by the trustees.

Q—But the rolling stock was purchased out of this account? A—It was bought out of the general account.

Q—It came out of the Commercial Bank. Who now hold the rolling stock? A—The Detroit and Milwaukee Railroad Company.

Q—Who compose the new Company—who are the Directors? A—I am the President, and Mr. Reynolds is the Vice-President. There are only two English Directors. One or two vacancies exist at this moment; but there are nine still on the Board.

the arrangements in regard to the new Company to be the same as respects the old? A—

It is stated that the Commercial Bank were parties to the sale of the Detroit and Milwaukee? A—

Q—Do you know the terms on which they were made parties? A—Mr. Campbell knows about them. I have not seen those terms.

Hon. J. H. CAMERON read the agreement as follows:—

IN CHANCERY.

"The Circuit Court of the United States for the District of Michigan.

"CHARLES J. BRYDGE, THOMAS REYNOLDS,
"and HENRY C. R. BECKER,

"THE DETROIT AND MILWAUKEE RAILWAY
"COMPANY

"In the above entitled cause it is hereby mutually stipulated and agreed as follows:

"The Counsel for the Defendant having assented that a decree in this cause be entered on the sixth day of August, A.D. 1860. In consideration thereof the complainants, by their Solicitors, do hereby stipulate in this cause to and with Archibald Hamilton Campbell, Esquire, of Kingston, Canada, as Trustee of the Commercial Bank of Canada, and others, as follows, viz.:

"1st. At the sale under the decree in this cause the complainants in their own or in the names of other persons will bid in the property, premises, and franchises so sold under said decree, provided the same are not bid up beyond the amount due on (and the amount herein agreed to be paid said Trustee) the decree, and that in the event of such purchase in their own names, or in the names of such other persons, a new Corporation shall be organized under the laws of the State of Michigan, which shall succeed to all the premises, property and franchises so sold under said decree.

"2nd. That seven per cent. preferred stock in the said new Corporation shall be issued to an amount equal to the aggregate amount of the debts mentioned or described in the schedule hereto annexed marked "A" and that by the sale of said stock or otherwise said new Corporation will pay said debts as follows, viz.: one-third on the first day of June, A.D. 1861; one-third on the first day of June, A.D. 1862, and one-third on the first day of June, 1863, with interest as follows, viz.: interest on the whole sum on the first day of June, A.D. 1861, and interest after that semi-annually on all remaining unpaid, such preferred stock to be of equal value and priority in all respects with any other preferred stock to be issued by said new Corporation.

"3rd. That in the event that the complainants or said new Corporation do not fully perform and carry out the foregoing agreement that then and in such case, upon presentation of this stipulation, said decree may be vacated and held for nought, and said Trustee or his successor shall be permitted to interpose for the benefit and advantage of said Bank, or whoever may be the holder of said debts, and take all proceedings as he may be advised to with reference to the said debt specified in said Schedule A for the recovery thereof against all persons or corporations whomsoever who may now be liable to pay the same, with the same force and effect in all and every respect as if the said decree was not entered.

"4th. It is further understood and agreed, that this agreement, or any proceedings or documents connected with it shall not be considered or taken as any election of the remedies of the said Bank for the said debt, but as a means of payment and a proceeding solely collateral.

(Signed)

"WILLIAM GRAY,

"Solt. for Complainants.

"Interlineations and erasures initiated W. G.
"being first made.

(Signed)

"WM. GRAY.



"Schedule A., referred to in the foregoing Stipulation.

"The sum, one million thirty-nine thousand two hundred and three dollars and ninety-eight cents (\$1,039,203 98).

"(Signed)

"WM. GRAY, Solr."

To WITNESS—In a memorandum you made you say you must mention that more than the loans of £250,000 had been expended. Do you mean by that the whole of the £250,000 sterling granted by the Great Western had been so expended in the completion of the line with rolling stock, stations, &c.? A—Yes.

Q—But it is not so. How much was expended in the payment of coupons? That was set down at \$252,000? A—I dare say it was.

Q—And how much was devoted to the payment of old claims? A—My statement tells you, I think.

Q—No, it does not. Was not the greater portion of this sum of \$252,000 paid on coupons, so paid in England out of the loan? A—A considerable sum was paid for coupons.

Q—And in addition to that, there was the large amount of \$116,000 paid for protested bills? A—These bills were paid by second mortgage bonds—at least the great bulk of them were so paid. If you read a statement I have made in the red book, you will see that I spoke of expenditures for work done after the loan was granted.

Q—Were not the payments made to Duncan, Sherman & Co., by exchange on England? A—They were. That was not for coupons, but for money the Detroit and Milwaukee owed them for rails—or rather, it was paid on the security Duncan, Sherman & Co. had given on account of rails.

Q—Then there were \$21,000 of second mortgage bonds paid to Raynor & Clarke. How was that paid?

A—It was paid by draft. It went through the Commercial Bank.

Q—The Commercial Bank paid it? A—It went through the Commercial Bank.

Q—What I desire to show is, that the sum of £302,000, which you set forth in the red book, does not apply to old debts at all? A—The meaning of that statement is, that there has been expended for works, stations and rolling stock, and for other things required for the finishing and stocking of the Detroit and Milwaukee road, the sum of £302,000. That does not include interest on bonds or any of the old debts.

Q—Out of the \$250,000 sterling, advanced by the English shareholders, there must have been nearly the amount of the loan of £100,000, which was not expended on the works at all? A—I cannot say what the amount is. I do not admit that it is as much as the loan of £100,000.

Hon. J. H. CAMERON—I have analysed the expenditures, and I shall have an opportunity of proving to the jury that such is the case.

The learned JUDGE—Is that your defence, Mr. Cameron?

Mr. M. C. CAMERON—It is, my Lord.

Hon. J. H. CAMERON—I do not intend to call further witnesses.

The learned JUDGE—And the speeches on both sides had better be reserved until to-morrow.

The Court then, at seven o'clock, adjourned.

WEDNESDAY, May 14, 1862.

The Court re-assembled at 9 A. M.

Mr. M. C. CAMERON—Has your Lordship determined what questions of fact you will submit to the jury?

The learned JUDGE—In my view, there are two questions to be submitted. The first is, to whom originally was the credit given? and then, secondly, was there any limitation to it?

Hon. J. H. CAMERON—I would submit, through your Lordship, for the information of my learned friend, the propositions which I propose to submit to the jury, with your Lordship's consent: First, To which Company was the credit given by the Bank—the Great Western, or the Detroit and Milwaukee? Secondly, Had

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Messrs. Brydges and Reynolds authority from the Great Western Company to make financial arrangements for the Detroit and Milwaukee Company, on account of the Great Western Company to the extent of £250,000 sterling; and was the account with the Commercial Bank opened and conducted by them in pursuance of such authority. Thirdly, Had the Commercial Bank notice at any time while the account was going on, that Messrs. Brydges and Reynolds had exceeded their authority, or that more than the two loans of £250,000 sterling had been expended? Fourthly, Did the Great Western Company reap the benefit of the expenditure made by the Commercial Bank on the Detroit and Milwaukee account? These are the questions I propose to leave to the jury.

The learned JUDGE—They come pretty nearly to what I shall submit myself.

Mr. M. C. CAMERON—There is a further point to be connected with the first proposition, and that is, whether the credit was not given to Messrs. Brydges and Reynolds, personally.

The learned JUDGE—I will place that on my notes.

Mr. M. C. CAMERON—The term "to make financial arrangements for the Detroit and Milwaukee Company," should be amended in this way,—“Had Messrs. Brydges and Reynolds authority from the Great Western Railway to make this special arrangement with the Commercial Bank.” “Financial arrangements” is a term having a wide signification. No doubt they had authority to make arrangements of a financial character with the creditors of the Company. And I submit that the term used is not a term applicable to the circumstances of this case.

Hon. J. H. CAMERON—I would contend, my Lord, that it is the only term which does apply.

Mr. M. C. CAMERON—Had Messrs. Brydges and Reynolds financial authority, and was the account with the Commercial Bank opened and conducted by them in pursuance of such authority, is not, I contend, the way to put the matter to the jury. The question is simply one as between these parties themselves—whether Messrs. Brydges and Reynolds had authority from the Great Western to enter into arrangements for obtaining a credit from the Commercial Bank?

Hon. J. H. CAMERON—No, that is not the only way to submit it.

Mr. M. C. CAMERON—I have no objection to the third proposition. The fourth is, “Did the Great Western Company reap the benefit of the expenditure made by the Commercial Bank on the Detroit and Milwaukee account? Now, that is not a matter-of-fact way of submitting the question at all. The proper way of putting the question would be, whether the money was expended on the property of the Great Western, and the proceeds went into their exchequer?”

Hon. J. H. CAMERON—I propose, however, to have these questions asked.

Mr. M. C. CAMERON—I agree to the first proposition, with the amendment I have spoken of. The third is unobjectionable; but the second and fourth are not at all proper.

Hon. J. H. CAMERON—It can do no harm to submit them to the jury, and may do good.

Mr. M. C. CAMERON—They may mystify, and therefore do harm. I want the thing both plain and straight.

Hon. J. H. CAMERON—It is to make the thing both plain and straight that I propose to submit to the jury these propositions.

Mr. M. C. CAMERON then addressed the Court, as follows:—May it please your Lordship, gentlemen of the jury,—It now becomes my duty to reply on behalf of the defendants. I presume you will have gathered from the evidence which has been offered on their behalf, as well as from the opinion of my learned friend, Mr. Eccles, the nature of the defence. I think, perhaps, that so far as the question to be disposed of by you is concerned, he opened the case fairly enough, but as regards the facts, he distorted them considerably, not possibly from any desire he had to deceive you, but because I think he has deceived himself, having been insufficiently informed of the case by those whose duty it was to place him in possession of the facts. I have

observed, gentlemen of the jury, that you have most patiently and attentively listened to the evidence in this case. My learned friend, Mr. Eccles, has called your attention to the fact, that it is a case involving very considerable difficulties as to questions of fact—such difficulties that it was not easy even for Counsel to understand them; and such, therefore, as would require the closest attention on your part in order to your coming to a just conclusion. I, however, gentlemen of the jury, fancy that the facts are really simple, and that you, by bringing your strong natural common-sense to bear in aiding you in your patient determination to arrive at the truth, will readily discover which of the two parties now before you is in the right. I have no doubt that the Commercial Bank and those who have advocated its cause had full reason to apprehend that there were serious difficulties and obstacles in the way. The great array of talent you see before you would probably evince this as strongly as proof could be adduced. We have here gathered together in the City of Kingston—a place in which I never had the honour of appearing in a court of justice on any previous occasion—several of the leaders at the bar compared with whom I am young in years and in experience. I have never before been called so far away from home to address a jury in a case of such great and paramount importance; but those by whom I am retained were pleased to think that I would be able to place a just issue before you as men of integrity and common sense, and they chose me because they considered that before a jury of my countrymen I would be able to prevent them from suffering injury and injustice, though the whole talent of the bar of Upper Canada were arrayed against them and against me. We have here at this trial, the Hon. John Hillyard Cameron as leader on the part of the plaintiffs, a gentleman whose reputation is not only Provincial but has extended to Great Britain, and probably to foreign countries as well. Associated with him is Mr. Eccles, a Queen's Counsel, whose reputation is perhaps not one whit inferior to that of his colleague in the plaintiffs' case. Associated with them is Sir Henry Smith, in whose commendation I am persuaded I need say nothing to a jury assembled in the City of Kingston, his home; and Mr. Galt, another Queen's Counsel of eminence, whose legal knowledge and attainments are known far and wide. We have likewise Mr. Adam Crooks as an advocate for the plaintiffs, Mr. James O'Reilly, and I don't know how many aiders and abettors beside, to defend the case of the Commercial Bank. The Great Western Railway, however, unlike the Commercial Bank, have not acted on the wise maxim of Solomon, that in the multitude of counsellors there is safety. I have the benefit of the counsel of my learned friend Mr. Irving, and I should also have had the able assistance of my learned friend Mr. Becher, but for the circumstance of his being a director of the Great Western Railway, and being thus in some degree interested in the matter it was thought advisable that he should not appear before you in his professional capacity. Had he taken a brief in this case, his position at the bar, and his rank as a Queen's Counsel, would have entitled him to have addressed you to-day instead of myself. And here I must say that we have had the benefit of such assistance as could be afforded us by several American gentlemen who have been introduced to you, but introduced in the most unfavourable, and, I cannot help remarking, discourteous manner by my learned friend, Mr. Eccles; although, perhaps, those who know Mr. Eccles as well as myself will be well assured that he never for a moment intended to wound the feelings of those gentlemen, whose misfortune, as we would say, it is not to have been born good British subjects, but citizens of the Republic on the other side of the line. Several of these gentlemen have been interested in the Great Western Railway, as Solicitors for them in the City of Detroit, and otherwise, and in acting on behalf of the Detroit and Milwaukee Railway, which has been so mixed up in the matter of this suit. To these gentlemen who understand well the ramifications of these transactions, I am much indebted, both as to the facts and in regard to the legal bearings of the case. Having made these few introductory observations, I will now endeavour to deal with the facts of the case, on which you will have to arrive at a conclusion. As I understand from the view taken by His Lordship, the facts will be submitted to you to-day, leaving important legal questions to be disposed of hereafter by another tribunal. You will be asked, then, to say whether, when the arrangement which has been spoken of by the witnesses—and upon which it will be my duty to comment hereafter—was entered into, it was intended that the credit should be given to the defendants, the Great Western Railway Company—to the Detroit and Milwaukee Railway Company—or to Messrs. Brydges and Reynolds. Messrs. Brydges and Reynolds, you will have gathered from the evidence, are the principal officers of the two Railway Companies. Mr. Brydges is the Managing Director of the Great Western Railway, and his great ability and very intimate knowledge of railway matters

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have induced those having the control of the Grand Trunk affairs to place him at their head also, with a view to ascertain if it is not possible that the knowledge and judgment which he has shown so much to the advantage of the Great Western, will be able likewise to extricate the Grand Trunk Railway from the difficulties under which that undertaking is labouring. His being placed in that position shows how highly his services and his talents are appreciated by those who have the interests of the country at heart, and who are deeply concerned in the success of our great railway enterprises. The evidence has established, I think, to the satisfaction of every one, that the Detroit and Milwaukee Railway was regarded as an excellent feeder to the Great Western, and it therefore was to the interest of those who were desirous of the advancement of the Great Western Railway, to see that the Detroit and Milwaukee Railway was brought to such a satisfactory completion as would enable it to render material aid to the Great Western undertaking. You will have understood from what has already been stated, that the Detroit and Milwaukee Railway Company is a foreign corporation; that is to say, a corporation organized under the laws of Michigan, in the United States. It is not such a company as the Great Western could, as it were, submerge and incorporate with itself. It had to be entirely distinct. Being embarrassed in circumstances, it was thought that the Great Western Railway proprietors—in other words, the shareholders of the Great Western resident in Great Britain, many of them being men of means, though many of them, I presume, were men of very small means, to whom the unsuccessful working of the Great Western undertaking would be a serious disadvantage, perhaps ruin—it was considered that they might probably be induced to advance money to the Detroit and Milwaukee Company, to enable that Company to complete its works. My learned friends have been raking amongst our papers and documents for years past, to see if they could anywhere find materials to help them in their construction of the case, and they have gone back to the year 1863 for extracts from the minutes of the proceedings of the Great Western Board on everything which relates to the Detroit and Milwaukee Railway. I am most happy that they have taken the trouble to do so, because it will satisfy you that long before Mr. Reynolds, at all events, came to this country, and long before it was considered desirable to make a loan or advance to the Detroit and Milwaukee Railway by the Great Western Railway, the importance of the Detroit and Milwaukee as a link connecting a large portion of the territory in the United States with the Great Western was well known and understood. My learned friend, Mr. Eccles, has laid a map of the country before you through which these roads pass, and you have seen some of the lines laid down in blue, some in pink, some in black, and some in green; but his own vision has become so jaundiced, that he calls a brown covered book yellow. (Laughter). He presented these plans for the purpose of showing you of how much importance it was to the Great Western that the Detroit and Milwaukee should be made a feeder to it, and he brought before you, what he asserted to be a fact, that the Grand Trunk being nibbling for the purpose of forming a communication between that line and the Detroit and Milwaukee, Messrs. Brydges and Reynolds, as representatives of the Great Western, stepped in and absorbed it to the exclusion of all others. Well, Gentlemen of the Jury, that was a very fine fancy of my learned friend; but, unfortunately for him, it so happens that it has no foundation in fact, because the Act of Parliament under which the Great Western had authority to deal with the Detroit and Milwaukee contained an express provision that no other railway should be shut out, if it so desired and could so arrange it, from forming a similar connection. My learned friend then put in this red book, which they evidently look upon as a very formidable document. But what does it go to prove? Simply that a man in Mr. Brydges' position—a man who had done so much for the Great Western Railway Company—was not free from the envy of envious men. They made all sorts of charges against him; a committee of investigation took place, and Mr. Brydges made a reply to those charges, which reply was considered so satisfactory that he was relieved with honor from every imputation which had been cast against him. As there has thus been a vast amount of want of candour on the part of the Commercial Bank in this matter, it is well to watch how the straw moves, because, as you know, it is sometimes said that straws indicate which way the wind blows. They are too willing, I fear, to distort matters, so as to make it appear that the shareholders in England concurred in everything which Messrs. Brydges and Reynolds did. In reference, however, to the dealings of these gentlemen with the Commercial Bank, I will read you some of the passages upon which they have laid so much stress, so that you may see upon what flimsy circumstances they depend, in order to do a serious wrong to the Great Western Railway Company, and thus deprive them of over a million of money. On page 27 of the red book you will find a resolution which is in the following words:—

"That it be left to the discretion of Mr. Brydges and Mr. Reynolds, after complete investigation of the Detroit and Milwaukee accounts, and after having made such arrangements with the Creditors forming the floating debt as they may deem satisfactory, to close up existing sub-contracts for works, Mr. Wythes having expressed his willingness to relinquish his contract on payment of a balance not exceeding £5,000 due to him, or to stop all further expenditure on the works except what is actually necessary for working the Line, or to cause the continuance of the works to be proceeded with as far as or beyond the Grand Rapids, it being well understood that the basis of any advance of funds by the Great Western Railway for this purpose is that the expenditure shall be wholly under the direction and control of Mr. Brydges and Mr. Reynolds, and that such outlay shall not in any manner be jeopardised by the claims of existing creditors of the Detroit and Milwaukee Company." They the Report goes on to say:—"Armed with this authority, Mr. Brydges left England on the 14th and arrived in New York on the 26th November, 1857, to take such steps to secure the completion of the Line as, after due investigation and successful arrangements with the creditors of the Detroit and Milwaukee Company, he and Mr. Reynolds might consider most desirable. Immediately on his arrival in America, these gentlemen applied themselves to carry out the orders of the Board; and, on the 28th December, 1857, they addressed their first detailed Report upon the subject to the Board in London, stating the arrangements they had made with the secured creditors for the postponement or payment of their debts, and also for the carrying on of the works, so as to effect the immediate completion of the Line. Whilst Messrs. Brydges and Reynolds were thus occupied in carrying out the objects for which this Loan was made, they also engaged themselves in obtaining security for the repayment of the money. That security was certainly as complete as the Detroit and Milwaukee Company could offer. A third mortgage was effected in favour of three members of the Canadian Board of the Great Western Railway, securing to those gentlemen, as Trustees, the whole of the Detroit and Milwaukee Line, and placing the whole of its affairs in the entire control of Directors, to be nominated from time to time by the Great Western Company, the deed of mortgage being most stringent in its covenants. About this time, the embarrassed state of the London money market began to interfere so seriously with the contemplated arrangements for advancing money to assist the Detroit and Milwaukee Company, that the Directors wrote to Mr. Brydges the letter of December 18th, 1857, referred to by the Committee impressing very strongly upon him the necessity for exercising additional caution, and strictly forbidding him from entering into any engagements on their behalf; this letter did not reach Mr. Brydges until the 9th of January following, before which time Messrs. Brydges and Reynolds had made all their arrangements in pursuance of the instructions given to Mr. Brydges when he left England on the 14th of November, 1857."—"You will observe that the plaintiffs in this case have endeavoured to hinge very important considerations on this language in the report, and on the letter of the 18th December, 1857, telling Messrs. Brydges and Reynolds that they must stop further advances to the Detroit and Milwaukee Company—that they must not go on with the scheme provided for in the month of October in the same year, because circumstances had arisen which induced them to think that it would not be convenient to the Great Western to furnish the means. To that, however, they say in this report that Messrs. Brydges and Reynolds had made all their arrangements in pursuance of the instructions given to Mr. Brydges when he left England, on the 14th November, 1857. The counsel for the plaintiffs, however, may urge upon your consideration, in the most fallacious manner, that these arrangements applied to the Commercial Bank—arrangements which had never been heard of in England at this time at all. The arrangements really were, to make the best of the expenditure of the loan on behalf of the Detroit and Milwaukee Railway, and to see the creditors of the Company and to induce them if possible to lay aside for a time their more urgent demands. These were the arrangements contemplated at that time, and the Commercial Bank had not for a single moment entered into their consideration. The report then goes on to say:—"These arrangements being in accordance with powers granted to Messrs. Brydges and Reynolds, and the money market having materially amended, the Board did not hesitate to confirm them in their letter of the 26th January, 1858." And when you come to consider what those powers were, you will see at once that Messrs. Brydges and Reynolds had no authority to pledge the Great Western to the Commercial Bank for one sixpence; and in the manner in which the letter was given on which so much stress has been laid, you will see that it does not apply to the Great Western Company at all. Drowning men, however, grasp at straws, and the Commercial Bank have seized hold of everything, however unfair it might be to do so, to aid them in their case. At page

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80, which has also been referred to, these facts are stated:—"By the arrangement under which the Detroit and Milwaukee Railway was placed in the sole control and management of the Great Western Company, it was agreed that the London Directors of the Great Western Company, as well as Messrs. Brydges and Reynolds in Canada, should become Directors of the Detroit and Milwaukee in order to protect the interests of your Company. For this purpose it became necessary that they should be duly qualified as Directors of the Detroit and Milwaukee; and, accordingly, 100 shares were duly transferred into the name of those Directors, for the purpose of affording them a qualification. But it was understood that upon resignation of office, each Director would return these shares to the Company. Accordingly Mr. Hoyes, on his retirement from the Detroit and Milwaukee Board in November, 1859, returned there and then his one hundred shares. Mr. Govan on his retirement did the same, and the executors of Admiral Laws have also returned the shares formerly held by that gentleman. Messrs. Gill and Cullen, as also Messrs. Brydges and Reynolds, being still Directors of the Detroit and Milwaukee Company, of course retain their respective qualifications. Your Directors have further to observe, that the Committee of Investigation were fully acquainted with these facts when they imputed to your Board that the 100 shares were transferred to and accepted by each member of your Board for a corrupt purpose."—They were charged with corruption, you will see, because when it was provided that £150,000 of the monies of the Great Western Railway should be lent to the Detroit and Milwaukee Railway, it was further stipulated that the Great Western Railway should have the control of the expenditure of it. My learned friend Mr. Eccles has been pleased to animadvert upon the character of our neighbours in the United States. I shall not follow him in this matter; but I may remark, that if you find a Canadian counsel of the eminence of Mr. Eccles standing up in a court of justice and denouncing the people of the United States as being dishonest and corrupt, it may be well supposed that cautious Englishmen, when advancing their money to an American company, would take care to see that they had some security for it. So these gentlemen stipulated that they should have the power to control the expenditure of the money, and the only means of obtaining that power was by giving these gentlemen a commanding position at the Board. It was therefore agreed that certain Directors of the Great Western should have a position at the Board of Directors of the Detroit and Milwaukee Railway Company. But by the constitution of the Detroit and Milwaukee Railway Company, it was not possible that such a thing could be brought about, unless the Great Western Directors were also shareholders in the Detroit and Milwaukee, because none but shareholders were eligible for election as Directors. Thus a certain number of qualification shares were apportioned to these gentlemen, each holding one hundred shares until his term of office was at an end. There was no concealment in the design. It was for the benefit of the Detroit and Milwaukee that such should be the case. Still, with the facts well known, this charge has been brought against them; and though it was satisfactorily answered, it has been urged here again, I am sorry to say, in a court of justice. I shall perhaps have occasion to refer again to this report, and to Mr. Brydges' answer to it, as bearing on the facts of the case. But I will now deal with circumstances which show most conclusively that when Mr. Park and Mr. Ross, acting for the Commercial Bank, entered into financial arrangements with Mr. Brydges and Mr. Reynolds, they in no manner expected that they were getting the credit of the Great Western Railway Company. Now, it is a fact, admitted by Mr. Park, who is the manager of the Commercial Bank at Hamilton, that he had communications with Mr. Reynolds and Mr. Brydges in reference to this matter; and it is stated by him that he was shown a memorandum in writing, relating to something or other which he does not now recollect, because it is convenient that memory should play him false on this occasion. He recollects the language used then; but a document placed before him to show him the means by which the monies were to be realized which were to repay the Commercial Bank of Canada for the advances they might make, Mr. Park conveniently overlooks, saying that this matter, of so much importance, escaped his attention. Now, gentlemen of the jury, I will show you this statement, in order that you may be able to say whether, in your judgment, it was so insignificant as to have no bearing on the matter. [Mr. Cameron then presented Schedule A before the jury, and explained to them its contents.] You will agree with me, I think, that this is a formidable looking document; yet this is the document Mr. Park says he cannot recollect anything about, though a few words that were uttered he remembers perfectly. Mr. Ross cannot recollect it either. In reference to the memory of these gentlemen, I may have a great deal to-day to say, and I think before I have done I shall be able to show you that it is faulty in many respects. You will recollect that the arrangements in regard to the

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Detroit and Milwaukee Railway were entered into in December, 1857, and the statement I have shown you sets forth the requirements of the Company for the year 1858. The sum of \$1,035,564 was required. Messrs. Brydges and Reynolds go to Mr. Park—the Commercial Bank being already bankers of the Great Western Railway Company, and, as Mr. Brydges tells us, he having already had conversations with Mr. Park on the subject, in reference to the exchange which Mr. Park knew would necessarily be drawn by Messrs. Brydges and Reynolds on the home Board for the purpose of realising the £150,000 which was to be advanced. It seems that in banking operations they make considerable sums of money by obtaining exchange in this way: they have obligations to meet in England, and it is of immense advantage to them if they can find persons in this country who have credits at home, and who will place their bills of exchange in their hands. The way in which Messrs. Brydges and Reynolds had been empowered by the Great Western Railway Company's shareholders to invest the sum of £150,000 sterling of their money in the Detroit and Milwaukee Railway, offered them such a means of obtaining exchange as they did not like to let pass unimproved. You will see by the statement already submitted, that the estimated receipts from the Detroit and Milwaukee line was about \$380,000, and the requirements over a million. And how was the balance to be met? Messrs. Brydges and Reynolds, who were appointed Trustees by the English Shareholders to invest this money, said they would draw on England, in their individual character, on account of the £150,000 sterling loan, to the extent of \$705,545—making, with the traffic receipts, the sum of \$1,035,545. Here, then, we have the commencement of the undertaking. Mr. Brydges held a very high position, and Mr. Reynolds was sent out expressly to take the office of Finance Director of the Great Western, shewing the estimation in which he also was held in England. Mr. Ross and Mr. Park, I have no doubt, were thoroughly satisfied with the standing and integrity of these gentlemen. They were satisfied that they wanted just what they asked for; and they were satisfied, too, with their having at their disposal exactly what they stated. Such being the case, they thought they could deal without fear with these gentlemen. "They are not asking," said they, "that we should give them a credit to a large amount without security; but they say that they require a sum of money for immediate necessities, and within a month they will be able to restore to us so much, and within another month so much more." The Commercial Bank officers were satisfied at that time at being able to deal with Messrs. Brydges and Reynolds in this way. They did not desire, I am well persuaded, at that moment, to have the security of the Great Western Railway Company, and I think I shall be able to establish to your satisfaction that Messrs. Brydges and Reynolds had no authority to bind the Great Western Railway Company in dealing in the manner they did. At this point I must go back a little. In the month of August, 1857, for various reasons—the desire of the Commercial Bank to get the account not being perhaps the least of these reasons—it was felt that it would be to the interest of the Great Western Railway Company to change its account to the Commercial Bank of Canada from the Bank of Upper Canada. The Great Western Company had done its business for sometime previously with the Bank of Upper Canada. The Bank of Upper Canada had dealt liberally with them, as is evident from the fact that at the time of the transfer of the account, the sum of £72,000 was due from them to that Bank. Well, they entered into arrangements with the Commercial Bank; and I will now read you a letter showing the formalities they observed in opening this account between the Commercial Bank and the Great Western, that you may contrast it with their manner of dealing afterwards, and thereby see for yourselves, and determine the way in which the Commercial Bank has dealt, whether with the Great Western, or with Messrs. Brydges and Reynolds, in their individual capacity, or as representing the Detroit and Milwaukee Railway Company. On the 11th of August, 1857, Mr. Ross writes this letter, being then Cashier of the Commercial Bank—(he has been at different times Cashier, Manager, Inspector, and President):—

"COMMERCIAL BANK OF CANADA,
"KINGSTON, 11th August, 1857.

"C. J. BRYDGES, Esq.,
"Managing Director,
"Great Western Railway Company,
"SIR,

"Referring to our recent interviews and preliminary arrangements for the Bank account of the Great

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Western Railway Company, at our Hamilton Branch, I beg to inform you that the matter has been submitted to our Board, and that the Directors have sanctioned the following agreement on the part of this Bank.

"The Great Western Railway Company will deposit with the Hamilton Branch of this Bank their total receipts of Cash and Cash Items (less American Bank Notes, and funds collected at Buffalo and Detroit, as hereafter referred to).

"The Bank will receive all current Canada Bank Notes, and such Cheques and Drafts at sight, at three days, as are payable at places where the Bank has offices, and in the United States generally at par. Where the Bank incurs charge of commission in collecting cheques and drafts, payable at points where we have no office, the Company will reimburse to the Bank amount of commission so paid, should it be found to reach any considerable sum, when compared with total receipts; if not, then no charge will be made. If charge is made, entry will only be made once in each half-year for sake of convenience, and meantime, accounts of the items will be kept.

"Receipts of the Company at New York will be transferred to Hamilton, by their Agent, depositing same in Merchants' Bank, New York, to credit of this Bank; and entries will be made at Hamilton by the Company depositing certificate of deposit as so much cash. Receipts at Albany, say balances accruing to Great Western Railway Company, from New York Central Railroad, will be deposited by New York Central Railroad, to credit of the Bank, with Bank of the Interior, Albany; and certificate of deposit will be transmitted to Hamilton for entry as before. I saw Mr. Pruyn about this matter; and he expressed his entire willingness to remit in this way,—desiring only that you should instruct him to do so. Please address him, and your agent at New York, in conformity.

"The Great Western Railway Company will use funds in Bank, at Buffalo and Detroit, for payments required to be made at these places—resulting balances not required for such local use, to be drawn for through the Bank.

"The Bank will honor, at par, cheques of the Company on Hamilton Branch, and all its offices—it being understood that no large cheques (say over £1000) will be presented at the smaller Agencies where no great supply of notes is held.

"The Bank will furnish drafts on New York for such payments as the Company may have to make in the United States (exclusive of Buffalo and Detroit) at par, when such payments cannot be made by cheque.

"The Great Western Railway Company, in making payments to employees and others, where cheques are not given to payees, will use the Bank's notes; and generally keep in view, so far as practicable, giving to the Bank the full benefit of circulation on disbursements of the Company.

"In consideration of this, and of the total receipts of the Company, as before stated, the Bank consents to give an overdrawing credit of £50,000 (say fifty thousand pounds currency), it being understood that such overdrawing credit, if used, is for temporary purposes, (say when receipts of the Company do not meet temporary disbursements), and not as a fixed loan for an indefinite period. The overdraft, however, to be available when required by the Company for ordinary expenditure of whatever nature.

"Interest will be charged on the Daily Balance when at debit; and, for convenience, will be charged once in each six months, at such date as may suit the accounts of the Company.

"Regarding Sterling Exchange, the Bank will take the Bills of the Great Western Railway Company on London at sixty days, at current New York rate of the day for first class bills. When the Company want to remit to London, the Bank will furnish their 60 days' Bills at one-half per cent. over-rate in New York. These calculations, reckoning one-fourth commission to be paid in New York and London on the transactions, are based upon the Bank receiving one-fourth per cent. profit as stated at recent interviews. Cash transfers in London, to the credit of the Bank for the use of the Company in Canada, will carry 1½ per cent. premium over

New York rate, at time of entry in Canada, being equivalent to 75 days difference of time. Bills at 80 and 90 days will be subject respectively to advance and reduction of one-half per cent.

"The Bank Directors, believing the account of the Great Western Railway Company to be an important one, from the indirect value of receipts, and issue of our notes for disbursements, desire to conduct the account in the most liberal manner; and, with this view, have sanctioned the terms as stated. Hereafter should any change be found necessary, either on the part of the Company or of the Bank, such alterations can doubtless be considered by both parties in the same spirit.

"In all such agreements, as the present, it is usual to name some period for notice of withdrawal therefrom. This I overlooked when at Hamilton; and while we look upon the arrangement as a permanent one, it is but right you should have a condition attached in this respect, as to which please advise me.

"It is understood that the debt of the Great Western Railway Company to the Bank of Upper Canada, (say about £70,000), is covered, or to be covered by Bond at three months' date, to be retired by Bill on London. The Company will endeavour to settle Bond by Bill directly with Bank of Upper Canada, and without the intervention of this Bank. Should, however, the Company consider the rate offered by Bank of Upper Canada for such Bill unduly low, this Bank will interfere in the matter—negotiate the Company's Bills in New York, or elsewhere, if to better advantage—giving to the Company the benefit of the Bank's endorsement and connection without charge.

"But it is recommended that the Great Western Company should ascertain, on what terms the Bank of Upper Canada will settle, say fifteen or twenty days before maturity of the Bond, so that, should the Bank have to intervene, time may be had to negotiate the Bills without being forced to sell for any one packet.

"I believe the above covers all the material points in the agreement, and if you find them to be correctly stated, please submit to the Board, and confirm on the part of the Great Western Railway Company.

"I remain, Sir,

"Your most obedient Servant,

(Signed) "C. S. ROSS,
"Cashier."

In order that you may understand what is here meant by circulation I will state a case:—Suppose the Bank issues notes to the extent of £1,000. The interest on £1,000 at six per cent. would be £60. If £1,000 of notes then are issued by the Bank and remain out for five years, they use the moneys which these notes represent, and make out of them £300. Well, small notes being put in circulation, are less likely to be returned than large ones, and notes of that description leaving the Bank to-day may not be returned possibly for twenty years to come. This, too, is their object in having their notes circulated as far away from home as possible, the further away they are put in circulation the greater is the chance of their remaining out for a longer time. You will thus see that it was an advantage to the Bank that the Great Western Railway Company should deal with their notes at a distance from the Bank. And the same observation will apply with even greater force to the Detroit and Milwaukee Company, which carried those notes far into the interior of the United States, where, I am happy to say, our neighbours have confidence in us—though we endeavour to shew that we have but little confidence in them—and where they take our notes as readily as they take their own. From the letter I have read, it was clearly contemplated by both parties at that time that the negotiation of the bills should be through the Commercial Bank. Here, then, is error number one on the part of Mr. Ross and Mr. Park. I am now, gentlemen of the jury, about to call your attention to a little effort of book-keeping as we see it in the books of this extensive corporation. I am not much of a "book-keeper" myself, except in the sense in which books are kept by most other legal gentlemen—for the purposes of show and to get musty on their shelves. But one would expect a different kind of book-keeping from a Banking institution like that of the plaintiffs. Mr. Park, however, went into the witness-box and said that he gave instructions to the officer in regard to the first

entry in the book having reference to the present transaction. It relates to the sum of £2,500, for which a cheque was given on the 30th December, 1857. You will have observed that no formal account had been opened at this time. You will have observed further—if you paid attention, as I am satisfied you did, to the evidence—that the Detroit and Milwaukee Railway Company had not yet selected Messrs. Brydges & Reynolds for its officers. They were appointed some days after, on the 22nd January, 1858. Thus the question as to the proper manner of making the entries must have arisen in Mr. Park's mind, without reference to Messrs. Brydges and Reynolds. But though he says he gave instructions to make the entry in a particular way, I contend as a matter of principle as well as of law, that what a man writes or orders another to write in his own books cannot be taken as evidence for himself, because he may write what he pleases, and we cannot tell with what object it is written, unless it is afterwards clearly made manifest by circumstances. But supposing this to be the correct original entry, it indicates nothing. The entry is made in this manner,—“G. W. R. R., D. & M. account, £2,500.” This is the first entry made to credit account, and it is dated 30th December, 1857. The next entry I shall draw attention to is contained in another book. Examine it, and it is evident that the writing which forms the heading is of two sizes. Perhaps, also, to a close observer—to a man with keen eyes—it will be equally manifest that the writing is rather lighter in one part than in the other. It may not be so—it may in fact only appear to be so from the circumstance of one part of the writing being smaller than the other—but it is not at all improbable that there is likewise a difference in the colour of the ink. Be that as it may, it is a question to be considered. On examining the heading you will see that the reference in it to the Great Western Railway is smaller than that relating to the Detroit and Milwaukee Railway. There is really no reason why it should have been so, inasmuch as there is quite space enough for it to have been written in a proper size, the same as the rest. My way of accounting for the difference is, that the Great Western portion was written at a different time, and for a special purpose. The answer given to this may be that if the parties interested designed to do wrong, they would not have gone so bunglingly about their work. But it is for you, gentlemen of the jury, to take every circumstance into account, and say on which side the probabilities lie. What I say is, that the circumstance of the name of their Company being written in such a manner at the head of this account, does not amount to anything against the defendants. And in this I am borne out by the index to the ledger, in which it is written down as the Detroit and Milwaukee account, and which does not contain a word about the Great Western Railway. I come next to the pass-book. I dare say you all know the use of the pass-book. If you go to a merchant's store for goods you get them entered in a little book called the pass-book; and so, in dealing with the bank, all transactions in regard to money were entered in a pass-book. Now look at the heading of this pass-book, and what do you find but—“Dr. Detroit and Milwaukee Railway Co. in account with the Commercial Bank. Cr.” This is one pass-book. I will show you the second book, in which this account is continued. Here it is. It is headed—“Detroit and Milwaukee Railway Company in account with the Commercial Bank of Canada.” Recollect that all this writing was by the officers of the Commercial Bank, and is furnished by them to the Detroit and Milwaukee Railway Company, and you must acknowledge that you have here, to say the least of it, a strong indication that they were dealing with the Detroit and Milwaukee Railway Company. Notwithstanding the bank had the power to establish before you that the entries in the ledger were original entries, if they desired clearly and satisfactorily to do so, all the clerks being here who made them, they say that they rely solely on this point, upon the statement of Mr. Park, who contents himself when he is questioned about the smaller writing by saying that it is all right; that he, Mr. Park, did not make the entry, but that he ordered it to be made by Mr. Cresswell. Mr. Cresswell was the gentleman who spoke of certain letters having been written to him, directing him to return the cheques paid by the Bank to the Company. These letters, he says, came at one time from Mr. Stephens, the Secretary, and at another time from Mr. Muir. And in both cases the letters had reference to cheques belonging to both Companies. He forgot that the Great Western account had been so entered as to show that the Detroit and Milwaukee account could have had nothing to do with it, and therefore, that most naturally, the reference in those letters would be to Great Western Railway cheques alone, and not to those of the Detroit and Milwaukee. I then called before you, Mr. Pooley, in reference to the account of July, 1858. I asked him if he had copied it correctly from the previous ledger. He says he believed he did so, though it was just possible he might have made a mistake. But if he had copied from

a ledger having the entry "Great Western Railway" connected with the "Detroit and Milwaukee Railway," it is but reasonable to suppose that he would have put those words in. You will find, however, the entry simply "Detroit and Milwaukee Railway Company." Mr. Pooley told you everything he knew. He did not happen to be as convenient of access to the Commercial Bank as were some of the other gentlemen. I come now to another book, and as to that, Mr. Park says an alteration certainly was made on looking into this matter sometime after. He says, it was then found a mistake had been made, and it was corrected. He thus acknowledges that a corporation whose books ought to be correct and unimpeachable, did not consider it beneath their position to materially change and alter them. The entry in the third book, I say was so manifestly an alteration, that it could not be denied. The words "Great Western Railway Company" are therein written above the words "Detroit and Milwaukee Railway Company," and were not written at the same time. Mr. Park says this was done merely to keep correct accounts, but banks who have officers employed specially to see to entries being correctly made in their books, do not fall into mistakes of that kind without some good object is to be served; so much for the books. We will now take the cheques drawn by Messrs. Brydges and Reynolds. You will understand that the view I have laid before you and intend for your consideration is this, that these two gentlemen, whose personal standing is beyond question, went to Mr. Park and Mr. Rose, submitted their requirements, shewed the means they had of meeting them, and obtained leave to draw on account of them. Under this arrangement the cheque I hold in my hand was drawn on the Commercial Bank. It is signed by C. J. Brydges and Thomas Reynolds, unofficially, and not managing director or finance director of the Great Western Railway. The cheque is an ordinary one, and cheques drawn in that way, went down to the 14th December, 1858. We will now shew you another phase in the transaction. In December, 1858, Mr. Park and the other officers of the bank had completed their arrangement for the opening of an office at Windsor. Windsor, as I presume you all know, is on the Detroit River, at the extreme western limit of the Great Western Railway, and immediately opposite Detroit, nothing but the river intervening between Detroit and Windsor. There was no branch there previously, and I questioned Mr. Park as to the establishment of a branch at that point of the Commercial Bank. Mr. Park said that that was merely a traffic arrangement, and he had no recollection of writing to any officer whatever connected with the Detroit and Milwaukee Railway on the subject, he declared that his whole dealings were with Messrs. Brydges and Reynolds, and that it was a mere traffic arrangement. Thus he wanted to brazen it out with a degree of effrontery which is not creditable to a man in his position. He pretended that it was the opening of a mere traffic account, and that that amounted to nothing. The fact was proved, however, that transfers were made from the Windsor office to the credit of the Detroit and Milwaukee Company at the office in Hamilton, where this account between the Commercial Bank and the Detroit and Milwaukee Railway was kept. Mr. Park would not say that this was done by the Detroit and Milwaukee Railway Company, so as to let us have the benefit of it; but he said, "I know that cheques were presented at the office, but they came from the Great Western Railway Company, and not from the Detroit and Milwaukee Railway Company." Now, we have documentary evidence contradicting that as flat as any thing can possibly be contradicted, and shewing how little Mr. Park is to be relied on when his testimony is in conflict with the testimony of gentlemen of the position of Messrs. Brydges & Reynolds. Here is a cheque of the Detroit and Milwaukee Railway Company, and you will observe how formally it is drawn. Recollect it is for the sums of money this and other precisely similar cheques drew out from the Bank, that they are now attempting to make the Great Western Railway liable. The cheques are signed by C. J. Brydges, President; Thomas Reynolds, Vice-President; Mr. Trowbridge, Secretary, and Mr. Pitman, Accountant. Could there possibly be a better indication, that the money so drawn out was drawn out by and for the Detroit and Milwaukee Railway? And yet Mr. Park says that all this is a sham—a delusion—a snare to entrap the Commercial Bank into the giving of credit to different parties from those to whom it was intended to be given! Now, if you will give me the receipts Mr. Park signed, you will see how they agree with these cheques. They read in this way,—“Detroit and Milwaukee Railway Company, to the Commercial Bank of Canada at Hamilton. March 16th, 1859. For and on account of overdraft due this office by the said Railway Company.” Here, then, we have a declaration in writing that this is a sum of money due to the Commercial Bank by the Detroit and Milwaukee Railway Company; and Mr. Park says that it does not amount to anything—that it is all nonsense! Here is also something in Mr. Park's handwriting,—“Received from the Detroit and Milwaukee

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Railway Company their cheque on our Windsor agency for \$3,000, which is passed to the credit of the Company here. W. H. Park, Manager." This is only one of many receipts of the same kind, which are not always, however, signed by Mr. Park, but sometimes by Mr. Sorley. They charge the Detroit and Milwaukee with monies drawn out on their cheques, they discount their notes, and they draw cheques for us on their own Bank. All the cheques of the Detroit and Milwaukee are signed by Messrs. Brydges and Reynolds, and they are charged by the Bank to the Detroit and Milwaukee account. The two large bundles of cheques I have before me are so drawn and charged. Let me now call your recollection back for a moment to the evidence of Mr. Park on the subject of the opening of the Detroit and Milwaukee account, and read to you in connection with it a letter written by him on the 4th November, 1858, to Mr. C. U. Trowbridge, Secretary of the Detroit and Milwaukee Railway Company. Here is the letter:—

"C. U. TROWBRIDGE, Esq.,

"Secretary,

"Detroit and Milwaukee Railway Company,

"DEAR SIR,

"A. H. Campbell, Esquire, one of the Directors of this Bank, visits Windsor in connection with the intention of the Bank to open an agency there; and as Mr. Reynolds has doubtless mentioned to you his purpose of arranging with your Board for a transfer of the account of the Company to Windsor agency, when that is opened, Mr. Campbell is naturally desirous of making your acquaintance, and I beg therefore to introduce him.

"I am, dear Sir, yours truly,

"W. H. PARK,

"Manager."

"Detroit."

The "A. H. Campbell, Esq.," mentioned in the letter, is the same gentleman who has been so often mentioned during this trial, though he has not figured like Mr. Park in the witness box. You see in that letter a direct introduction by Mr. Park to Mr. Trowbridge of Mr. Campbell, the inspector of the Commercial Bank. You have here, then, a considerable conflict between the writings and the testimony of Mr. Park, and it is for you to deal with it as it seemeth to you best. In considering your verdict, do not forget that the cheques on which this money was obtained, were drawn by Messrs. Brydges and Reynolds, in the first place in their own name and without any official designation whatever, and in the next place in their own names with the appendage of "President" and "Vice-President," and with the names and offices of the Secretary and Accountant attached. You would naturally be astonished if a man drawing cheques in his own name on a bank, were afterwards to say that he was drawing, not for himself, but for you, and that you must be held answerable for the money. And I can assure you that we are equally astonished at the attempt now being made to make the Great Western liable for the drafts of the Detroit and Milwaukee, inasmuch as both concerns are just as distinct from each other as though they had no connection whatever. Whilst on this branch of the case I shall take occasion to refer to what was said by Mr. Brydges and Mr. Reynolds. I presume you are to some extent judges of human nature and character. You can tell when you have an intelligent man before you, and form your own opinion as to what he says. In Mr. Brydges you had a man before you of position, education, and manifest intelligence, and who did not exhibit in any degree the stupidity which I am compelled to impute to Mr. Ross whilst in the witness box. (I am sorry to use the term towards Mr. Ross, but I am compelled to do so in justice to my clients, and in their interest and in a case of so much importance, I shall not hesitate, whatever may be the position of the person to whom it applies, to characterise his conduct in terms properly applicable to it.) Well, Mr. Brydges went into the witness box and he told you that he explained to Mr. Park what his requirements would probably amount to. He told you that exchange was spoken of, and that Mr. Park asked if the exchange of the Great Western Company could not be negotiated through the Commercial Bank. Mr. Brydges, so far as this transaction was concerned, was not representing the Board of Directors of the Great Western Railway in

this country. By his whole conduct, by his every allusion to the transaction, he showed that he was the representative, in conjunction with his colleague, Mr. Reynolds, of certain persons in England, and that in so-doing they were dealing on their own personal responsibility. Mr. Brydges did not go to Mr. Park with a document drawn out by a lawyer for the purpose of deceiving. He took Mr. Park a memorandum, and told Mr. Park that if he would trust him, and help him to carry out his programme, all would be well; and Mr. Park fell in with the arrangement on this understanding. Mr. Brydges tells you that he explained matters fully to Mr. Park; and Mr. Park confesses, on the other hand, that he recollects something of a memorandum, but he does not remember of its being produced on that occasion. Mr. Reynolds tells you also that it was produced at the Rossin House, Toronto. Mr. Ross says he does not know if it was so produced or not; but he states: "I think there was a document produced, showing the amount of the assets and liabilities of both companies." I will refer to this document presently, to show you how disingenuous it was on the part of Mr. Ross to bring in the document at that time; because the document was submitted to Mr. Ross at a different time. It must have been produced a long period subsequently; but Mr. Ross endeavours to make it appear that it was then produced in order if possible to prove that those companies are one and the same. I hold in my hand the document to which reference is here made. It bears date in the year 1856, so that it could not have been the paper referred to in the year 1857. You will perceive that it is a memorandum of the liabilities and assets of the Great Western and the Detroit and Milwaukee Railway Companies to the 31st December, 1856. For what purpose would you in fairness consider this paper to have been prepared? To show that those companies were identically one? Not at all; but for another purpose altogether. We will show you a letter referring to this instrument. The Commercial Bank, finding that the overdraft of the Detroit and Milwaukee Railway was getting larger and larger, and that the Great Western Railway Company were unable to carry out the arrangement in regard to exchange, resorted to another means of obtaining money. To that end, certain promissory notes for \$50,000 each were given, with the intention of their being discounted in the United States. But to induce the United States capitalists to discount them, bonds of the Great Western Railway Company were to be given as collateral or additional security; and solely with the view of enabling the persons who might be applied to in the United States to judge of the solvency of the two companies, this statement was prepared. You can now form your own opinion of their honesty in bringing this statement forward, with the view of leading you to suppose that the memorandum was made out to show that they were one, when, in point of fact, they were separate both in name and in every other respect. That they were regarded by Mr. Ross as separate is further made manifest by his letter of the 26th May, 1856, which I will read to you:—

"COMMERCIAL BANK OF CANADA,
KINGSTON, 26th May, 1856.

"C. J. BRYDGES, Esq.

"THOS. REYNOLDS, Esq.

"GENTLEMEN,

"Mr. Park has handed to us this morning your letter of yesterday, which has had our best attention. Without replying fully, I shall meantime give our views as to what has to be considered at present.

"We regret both the position into which these matters have got, and also your alluding to the contingency of removing the account, if you had to apply to a Bank in Canada, as a consequence of our insisting upon a fulfillment of the engagements to repay part of the advances by Sterling Exchange at this time. Mr. Park assures us that you disclaim an intention to co-operate us into meeting your views by the allusion cited, and we have therefore considered the question irrespective of this.

"I need not remind you, that on all occasions, and frequently to the inconvenience of the Bank and of other customers, we have met your wishes in that prompt manner which must have satisfied you not only of our willingness to oblige, but also of our entire confidence in the Company and in yourselves as its financial officers. This course has been uniformly followed by us in all the various relations, direct and indirect, which have arisen. (I allude to indirect relations, referring to our wish to do what we could towards re-establishing

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the credit of D. & M. obligations.) Acting upon this policy, and upon the full confidence that you would implement the arrangement to liquidate the balance in excess of £200,000 in June, we have gone on allowing the credit to be used beyond limit, honoring cheques, &c., &c.; and for this end we have used London, Edinburgh, and N. York credits, in the certainty that we should have cash or Sterling Exchange in June for the excess, whatever it might be. You know there has been no produce paper this past Spring or Winter to give us other funds now for remitting, and I may add that our Dr. balance in London exceeds £50,000 Stg., in N. York \$200,000. Both must be covered, as a matter of course, the former within next ten days, and we must make available, in some way, for this purpose, the obligations of D. & M. & G. W. Railways.

"I am prepared to do everything practicable to assist you, and will go to Albany and N. York on Monday to try what can be done. The balances, as on 23rd, were, say \$378,000, less \$200,000, \$178,000, and adding bills 23rd May to 6th June in our hands \$68,000, the result in round numbers is \$250,000. I should propose your giving us Notes of the D. & M. R. R. for \$50,000 each, (to the order of yourselves, to show you had no doubt of their being met) to extent of \$250,000, and at different dates from 30th inst., 2, 3, and 4 months. (Those not used of course to be returned to you, and we should use the longer dates if practicable), with the five Bonds of G. W. R. at 6 months as collaterals. On these being received here, I would go to Albany and N. York, try what I can do to negotiate them (the notes to extent of \$250,000) and buy sterling to remit, accounting to D. & M. acc't for proceeds. Please give these documents, with copies of the estimated receipts and expenditures of both lines to January, and of list of bills payable to Mr. Park, who will send them to me.

"If either of you wish to accompany me and take part in the negotiation, I can, of course, have no objection; but if I am alone, and am to act for you, I must have full power to close on your account.

"With reference to your remark about Mr. Campbell's allusion to an interview here being useless, it is due to him to state, that it was solely in view of the fact that our London account must be covered, and that we could not avoid calling upon you. Of course he never could have dreamt of your supposing we would not be glad to see you at all times.

"Believe me, Gentlemen,

"Faithfully yours,

(Signed)

"C. B. ROSS,

"Cashier."

You see in that letter he refers to the obligations of the D. & M. & G. W. Railways." I ask, what right had the Commercial Bank to speak of obligations of the Detroit and Milwaukee Railway, if, as they have said here on this trial, they did not consider the Detroit and Milwaukee in any manner the debtors of the Bank? Why make obligations of the Detroit and Milwaukee Railway available at all for these obligations? And again, why, as in the next paragraph of the letter, ask the Detroit and Milwaukee Railway Company for their notes of \$50,000 each? The notes were asked for from the Detroit and Milwaukee, and the collateral bonds from the Great Western. I presume there is no one present who does not understand the meaning of the word "collateral." And how does it come, if the Great Western Railway Company are the debtors, that they should be asked to go as collaterals, and the Detroit and Milwaukee as principals? This letter shows most conclusively that the Commercial Bank were aware that they were dealing with the Detroit and Milwaukee Company as principals, and not with the Great Western. The letter too, when taken in conjunction with the memorandum of assets and liabilities of the two companies, further shows that that statement was prepared for the purpose of establishing the solvency of the two companies with a view to the negotiation of the notes, and not, as the Commercial Bank officers disingenuously and unfairly assert, to prove a connection between them. There is yet another important consideration to be attached to this letter. It is important in this way: If we have a conflict of testimony between men of standing, of course it must be a difficult question to decide in favour of either; we have to look at the surrounding circumstances, for the purpose of judging which carries truthfulness continually with him, and which occasionally diverges from the direct road. You will recollect Mr. Ross said that when he negotiated the bonds of the Detroit and Milwaukee Company, he did it, not as an

officer of the Commercial Bank, but he did it by way of a friendly turn to the representatives of the Detroit and Milwaukee Company and of the Great Western Company. He said it was true that the Commercial Bank finally took them up, but that was only because he had led the Bank which discounted them to suppose that it was done with the concurrence of the Commercial Bank, though in point of fact it was done altogether privately by himself (Mr. Ross). Mr. Ross told you in one part of his evidence that when he writes a letter on private matters he does not attach to his signature his official designation. But this letter is headed "Commercial Bank of Canada," and concludes, "C. S. Ross, Cashier." Whilst on this point I must refer to other matters connected with the Bank and the Great Western Railway Company proper, to prove to your satisfaction that we have pursued a straightforward line of conduct—that all deviations from that course must be laid to the charge of the Commercial Bank, and that if they would depart from direct line in one matter it is not unreasonable to suppose they would do the same in other matters as well. On the 27th of May there was a communication between Mr. Park at Hamilton and Mr. Ross at Kingston, and Mr. Ross returns to Mr. Park a telegraphic message. The Great Western Company were not desirous at that time to give these bonds as collateral security. They wished to avoid it if possible; and thus a little difficulty was started. Mr. Reynolds wished that the giving of the bonds should be dispensed with, and that the notes only should be given. Such being the case, Mr. Park, as I presume, telegraphs to Mr. Ross. And here is Mr. Ross' answer by telegraph on the 27th of May:—"Consider wholly useless to go without bonds; therefore send them. Letter asked unnecessary, because bonds will revert when notes retired." The bonds were sent, and the following letter written by Mr. Reynolds was sent with them, which letter is in accordance with the minutes of the finance committee at the time the matter was referred to them:—

"GREAT WESTERN RAILWAY,

"HAMILTON, CANADA WEST, 28th May, 1850.

"W. H. PARK, ESQ.,

"Commercial Bank,

"DEAR SIR,

"I have now the pleasure to enclose for transmission to Mr. Ross, at Albany, the following documents, viz. :—

5 D. & M. Notes, at 2 mo. date.....	\$50,000 each.
5 Do. do. 3 "	50,000 "
5 Do. do. 4 "	50,000 "
5 Bonds under the seal of the Great Western Co., at 6 months, Co.	50,000 "
A memorandum of Liabilities and Assets of the G. W. & D. & M. Co's to 31st Dec. next.	

And lastly, a statement of the total Liabilities of the D. & M. Co. on Notes, with dates of maturity.

"The D. & M. Bills and the G. W. Bonds being all payable to the order of Mr. Brydges and me, we have endorsed them in blank.

"Two of the sets of D. & M. notes are to be returned to us, and as soon as the set to be made use of by Mr. Ross shall have matured, they are, if it is understood, to be retired or provided for by the Bank to the debit of the D. & M. Co.'s account, and the G. W. Bonds to be returned to the G. W. Co., to be cancelled.

"The Bills and Bonds being all endorsed in blank, the package containing them is a valuable one; I hope therefore you will excuse me for asking you to be so good as send me by the bearer, two lines to assure me it has safely reached your hands.

(Signed)

"THOS. REYNOLDS."

You will observe there is here a most distinct and emphatic declaration on the part of Mr. Reynolds, the gentleman who has the carrying out of this transaction on behalf of the Detroit and Milwaukee Railway Company, that the amount of \$200,000 was to be retired at maturity by the Commercial Bank, and that it was

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made use of simply for the accommodation of the Bank, the Great Western Railway Company having been unable to fulfil the expectation of giving exchange. As to the notes, it was made plain by the letter, that they were to be taken up at maturity, they were to be charged to the Detroit and Milwaukee account, and the bonds of the Great Western Railway Company were to be returned to be cancelled. But the bonds were not returned nor were the notes retired at maturity. The notes were renewed from time to time, and were ultimately retired; but the Commercial Bank positively refused to restore to the Great Western Railway Company the bonds which they received under the express stipulation that they were to be returned to be cancelled. I ask you gentlemen of the jury, was that a straightforward, a correct proceeding? Supposing you gave a note for the accommodation of a neighbour, you say to him, "this is a promissory note payable in such and such a time, before the expiration of which you will have to take it up. But to enable you to discount the note, I will induce friend Jones to give you his bond as collateral security. Jones being held as security, he will be answerable for the money if you fail in your promise to take the note up. If, however, you succeed in taking up the note, you are to return to friend Jones his bond;" very well.—Your neighbour, owing to the kindness of yourself in giving the note, and of your friend in giving the bond, raises the money wherewith to meet his pressing wants; and after one or two renewals retires the note. Of course, friend Jones calls upon him to give up the bond, in accordance with the original understanding and stipulation. But your neighbour refuses to do anything of the kind. He declares that having got hold of the bond, he will retain it and make Jones pay it. What would you think of such a transaction as that? And yet this is in effect the dealing of the Commercial Bank in reference to the Great Western Railway Company's bonds. Who would have expected such a thing from an institution like the Commercial Bank? I venture to say, no one. There is not a merchant in the land who values his character and reputation who would not blush with very shame if it was truthfully insinuated that he could be guilty of so disgraceful a transaction. And if a merchant would feel ashamed at it, how much more ought an institution be ashamed which makes pretensions to the high character of the Commercial Bank of Canada? This, then, I say is another circumstance which should lead you to look with suspicion upon anything they say or do when contrasted with the positive acts and declarations of men in the position of Messrs. Brydges and Reynolds. With reference, further, to these bonds, I have to call your attention to another singular circumstance as bearing strongly upon that point whether they were dealing with the Detroit and Milwaukee Railway Company as a company, or with the Great Western; and whether they did or did not then, as they now pretend, to regard the Detroit and Milwaukee Railway Company as a myth. I must read you Mr. Park's letter in which he pays Mr. Reynolds the compliment of being equal to himself. It was apprehended that Mr. Reynolds would scarcely be able to get the directors together for the issue of the bonds in time. But he was equal to the emergency. He did bring them together. There was also a difficulty about the seal, to gain access to which certain formalities had to be gone through. The box which contains the seal is opened by different keys held by two or three officers. There was also some doubt as to the key being reached. Mr. Reynolds, however, surmounted all these obstacles; and when Mr. Park found that he had done all that was necessary to be accomplished, he wrote him the flattering note in which he says that he has been equal to himself. (Laughter.) Here is the precious epistle itself:—

"MY DEAR SIR,

"11, P. M.

"Your letter, in explanation of the financial transaction Mr. Ross goes to N. Y. to look after, is received, and with it the 15 D. & M. notes and 5 bonds of the G. W. R., all right.

"You certainly have been equal to yourself in this matter; and none of us have to fear blame on the score of want of promptness.

"Yours ever,

"THOS. REYNOLDS, ESQ.

(Signed) "W. H. PARK.

"Mr. Munro, who goes with the parcel, is the son of an old soldier, and will be worthy of the trust."

Having read this little confidential note from Mr. Park to Mr. Reynolds, I will now read you two official letters, written by Mr. Ross to Messrs. Brydges and Reynolds, on the subject of the notes and bonds. The first is as follows :—

COMMERCIAL BANK OF CANADA,
" KINGSTON, 7th June, 1850.

"GENTLEMEN,

"Referring to four notes of the Detroit and Milwaukee Railway Company for Fifty Thousand Dollars, [Exh. Nos. 112, 113, 114, 115,] each, negotiated by Mr. Plumb, on account of the said Company in New York, I beg to state that the Bonds of Great Western Railway Company, No. 800 @ 808, inclusive, and amounting to Two Hundred Thousand dollars, are held by the holders of the notes alluded to as collateral security for payment of the said notes; and that on payment of the said notes the said Bonds will be returned to the Great Western Railway Co.

"I remain, Gentlemen,

"Yours faithfully,

(Signed) : "C. S. ROSS."

"C. J. BRYDGES, Esq., Man'g Director,

"THOMAS REYNOLDS, Esq., Financial Director,

"Great Western Railway Co.,

"Hamilton."

Now read this letter in connection with the letter of Mr. Reynolds of the 28th May, accompanying the bonds :

"GREAT WESTERN RAILWAY,
"HAMILTON, CANADA WEST, 28th May, 1850.

"W. H. PARK, Esq.,
"Commercial Bank,

"DEAR SIR,

"I have now the pleasure to enclose for transmission to Mr. Ross, at Albany, the following documents, viz. :—

5 D. & M. Notes, at 2 mo. date.....	\$50,000 each.
5 Do. do. 3 "	50,000 "
5 Do. do. 4 "	50,000 "
4 Bonds under the seal of the Great Western Co., at 6 months, Co.....	50,000 "
A Memorandum of Liabilities and Assets of the G. W. & D. & M. Co.'s to 31st Dec. next.	
And lastly, a statement of the total Liabilities of the D. & M. Co. on Notes, with dates of maturity.	

"The D. & M. Bills and the G. W. Bonds being all payable to the order of Mr. Brydges and me, we have endorsed them in blank.

"Two of the sets of D. & M. notes are to be returned to us, and as soon as the set to be made use of by Mr. Ross shall have matured, they are, it is understood, to be retired or provided for by the Bank to the debit of the D. & M. Co.'s account, and the G. W. Bonds to be returned to the G. W. Co., to be cancelled.

"The Bills and Bonds being all endorsed in blank, the package containing them is a valuable one; I hope, therefore, you will excuse me for asking you to be so good as to send me by the bearer, two lines to assure me it has safely reached your hands.

(Signed) "THOS. REYNOLDS."

You will here see that the stipulation accompanying the notes was, that they were to be retired by the Bank—rather different from the tenor of Mr. Ross's letter which I have just read. You will notice that that letter is addressed to Messrs. Brydges and Reynolds, as the Managing Director and the Financial Director of the Great Western Railway Company. On the same day he wrote another letter to them in their individual capacity. The other letter runs thus:—

"COMMERCIAL BANK OF CANADA,
"KINGSTON, 7th June, 1859.

"GENTLEMEN,

"I have to advise that as desired I proceeded to New York last week, and availed myself of the services of Mr. Plumb, who made negotiation of four notes of Detroit and Milwaukee Railway Co., say:

No. 314, at 2 mos. date from 31st May.....	\$50,000
317, " 3 mos. date " " "	50,000
322, " 4 mos. date " " "	50,000
323, " " " " "	50,000

On account of D. & M. R. Co. He has given us sterling exchange, £ 220,000 stg., on said account, and will give us another like sum, accounting to you for the figures in reference to due course. I beg to hand you herewith four notes of D. & M. R. Co. for \$50,000 each, four others for like amounts, and three others also for like sums at 2, 3, and 4 months respectively, in all five hundred and fifty thousand dollars, as also Bond of Great Western Railway Co., No. 304, £ 50,000, which were not used in the negotiation, making up the whole amount entrusted to me.

"I am, Gentlemen,

"Yours faithfully,

(Signed) "C. S. ROSS."

"C. J. BRYDGES, Esq.,

"THOS. REYNOLDS, Esq."

Surely from these letters any one of common sense may see that Mr. Ross considered he was dealing with these gentlemen in two distinct capacities. In the one case, he was looking upon them as the representatives of the Great Western Railway Company, and in the other he addressed them in a separate capacity altogether. Follow me now whilst I read the minute of the Finance Committee of the Great Western Railway, in reference to these bonds, on the 28th May, 1859. Remember that Mr. Reynolds's letter, accompanying the bonds, is written on the same day. The minute is as follows:—

"MINUTES OF MEETING OF FINANCE COMMITTEE OF CANADIAN BOARD,

"On 28th May, 1859.

"PRESENT—Thomas Reynolds, Chairman; John Young, Vice-President; C. J. Brydges, Managing Director; Richard Juson, F. W. Gates.

"COMMERCIAL BANK OF CANADA.

"THE Chairman reported that the Commercial Bank required to have their accounts in London, New York, &c., covered by the 15th June, preparatory to the closing of the Bank Statements for the six months ending the 30th June.

"The overdrafts by this Company and the Detroit and Milwaukee Railway Company are at the present moment in excess of the understanding come to with the Bank when they took the accounts, and the Bank now wish the surplus to be provided for prior to the 15th June.

"The subject had been very fully considered and discussed with the Bank, and as it was not possible to comply with their request for exchange upon England, the following arrangement has been suggested by the Bank :—

"The principal overdraft being on account of the Detroit and Milwaukee Company, that Company to give the Commercial Bank five notes each for \$50,000, made payable to Mr. C. J. Brydges and Mr. T. Reynolds, and endorsed by them, which the Bank proposes to get discounted, and place the proceeds to the credit of the Detroit and Milwaukee Company's account. These notes at maturity to be protected by the Commercial Bank, and the amount debited to the Detroit and Milwaukee account.

"To enable the Bank to negotiate these notes, they require in addition to the endorsement of Messrs. Brydges and Reynolds, bonds of the Great Western Railway Company at six months date for the sum of \$250,000 to be lodged as collateral security with the parties discounting the notes; these Great Western Railway bonds on the Detroit and Milwaukee Company's notes being so paid by the Commercial Bank to be cancelled and returned to the Great Western Railway Company, the object being merely to use them as collateral security, and not for negotiation in any shape whatever.

"Resolved—That these arrangements, as far as this Company is concerned, be approved of on the understanding set forth in the foregoing minute; and that five bonds, each for \$50,000, payable in six months, be prepared and executed, and handed to the Detroit and Milwaukee Railway Company, to be lodged with the Commercial Bank as collateral security to the Detroit and Milwaukee Company's notes.

"THOMAS REYNOLDS,

"Chairman."

3rd June, 1859."

The same reason, you will observe is here given for the notes and bonds being required by the Commercial Bank as Mr. Reynolds, the Chairman of the Committee, gives to the Bank. That reason was, that the Detroit and Milwaukee Company and the Great Western had overdrawn at the Bank, and made greater demands on the resources of the Bank than was stipulated for, when the arrangement was first entered into. On the other side, my learned friends will attempt to shew you that the making of this minute proved that the Great Western Railway Company were cognizant of the whole transactions—that they were cognizant the Commercial Bank had a claim against them on account of the Detroit and Milwaukee Railway. Unfair and unreasonable as it may be, this will be their line of argument. They will say that because Mr. Reynolds was the gentleman who dealt in the matter for both parties, the Great Western Railway Company must have been cognizant of the whole of the transactions. But you have the declarations of every one who was present at the meeting of the Finance Committee when the minute was passed, that they had not the slightest idea of the existence of any claim by the Commercial Bank against the Great Western Railway on account of the Detroit and Milwaukee Railway; and the hypothesis which will be raised by my learned friends on the other side, should have no weight when compared with these positive declarations. From this minute it is plain that the principal overdraft being on account of the Detroit and Milwaukee Company, that Company was to give the notes, to be protected by the collateral securities of the Great Western. The minute, you observe, is signed "Thomas Reynolds, Chairman;" and at the bottom is the memorandum—"3rd June, 1859." I should not wonder if the Commercial Bank, through their counsel, who have grasped at so many straws already, should fancy that they had here made a great discovery—that they would say that this minute, which bears date the 28th of May, was not, in point of fact, passed until the 3rd of June. But, if they took the trouble to reflect, they would find the true meaning to be, that the minute was passed by the Finance Committee on the 28th May, and subsequently confirmed by the Board. I fear, however, in making this explanation, that I may have taken some of the wind out of the sails of my learned friend, which I should be very sorry to do. (Laughter.)

Hon. J. H. CAMERON—My dear Sir, there is so much wind in our sails, that you could not take one-half of it out were you to speak all day. (Laughter.)

Mr. M. C. CAMERON—Yes: I am satisfied we shall have wind enough without it. (Laughter.)

Hon. J. H. CAMERON—Wind enough to carry you out of Court. (Laughter).

Mr. M. C. CAMERON—And wind enough, I hope, to carry that good ship, the Commercial Bank, to the haven, without taxing the Great Western Railway Company for towage. (Laughter). I have, now, Gentlemen of the Jury, to call your attention to another circumstance similar to the last. I shall show you letters written on the same day by Mr. Park to Mr. Reynolds, in his character as Vice-President, as well as in his character as Financial Director, shewing that the distinction was kept up throughout. There is nothing of material importance to be attached to these letters, further than to make it clear that the distinction was always kept between the two Companies, and by the several officers of the Bank. On the 22nd of May, 1858, Mr. Park writes the following note to Mr. Reynolds:

"COMMERCIAL BANK OF CANADA,
"HAMILTON, 22nd May, 1858.

"THOS. REYNOLDS, Esq.,
"Vice-President.

"DEAR SIR,

"I beg to hand you hereip, as requested, Exchange on New York for ten thousand dollars, and twenty-four thousand dollars, for which please send cheque as usual.

"I am, dear Sir,

"Yours very truly,

"W. PARK,
"Manager.

"Detroit and Milwaukee Railway Company,
"Hamilton."

That, you perceive, was addressed to Mr. Reynolds, as Vice-President of the Detroit and Milwaukee; and here is another letter from Mr. Park, of the same date, addressed to Mr. Reynolds, as Financial Director of the Great Western:

"COMMERCIAL BANK OF CANADA,
"HAMILTON, 22nd May, 1858.

"THOS. REYNOLDS, Esq.,
"Financial Director.

"DEAR SIR,

"That you may be provided in good time for the American part of the Bridge Rent, I enclose my draft on H. K. Sanger, for \$10,000, and I hope you will succeed in getting such funds from him as will serve to make the payment.

"The interest we will adjust next week.

"I am, dear Sir,

"Yours truly,

"W. H. PARK,
"Manager.

"Great Western Railway Company,
"Hamilton."

Can you have a stronger indication than is afforded by these letters, that these two companies were regarded by the Bank as quite distinct? I think not. But if further proof were wanting on this score, it is supplied by other two letters written by Mr. Park to Mr. Reynolds on the 29th of the same month. I will not trouble you by reading them to you. They are both written from the "Commercial Bank of Canada, Hamilton;" they are both dated "29th May, 1858;" they are both signed "W. H. Park, Manager;" but one is addressed, "Thomas Reynolds, Esq., Vice-President, Detroit and Milwaukee Railway Company, Hamilton Office;" and

the other, "Thomas Reynolds, Esq., Finance Director, Great Western Railway, Hamilton." This alone ought to satisfy any one that the Commercial Bank knew they were dealing both with the Great Western Railway Company and with the Detroit and Milwaukee Railway Company. Under this same head, I have still another circumstance to mention. On one occasion, certain notes of the Detroit and Milwaukee Company, which the Commercial Bank had got discounted in New York, were lost. Now, I presume you understand the law to be that no person or corporation has a right to recover on a promissory note or a bill of exchange, unless they have the document to present to the maker; because, whilst it was outstanding, the man who held it innocently would be entitled to recovery on it. This being so, of course if a note were lost, there would be a difficulty about paying it, inasmuch as the person who paid it ran the risk of its being again presented by an innocent holder. Well, it seems that in August, 1859, two notes which had been given by the Detroit and Milwaukee Company were lost, and it was desirable to satisfy them. Accordingly, Mr. Park, the Manager of the Commercial Bank, gives this undertaking:

"HAMILTON, 2nd August

"Two notes of the Detroit and Milwaukee Railway Company, payable at the Merchant's Bank, New York, on 28th April, 1859, to the order of the Boston Locomotive Works, for \$2,551 86, and of Robinson, Russell & Co., for \$1,085 57, having been paid and cancelled, and the same having been lost in transit from New York to this place—I, on behalf of the Commercial Bank of Canada, guarantee the D. & M. R'y Co. from having to pay such bills a second time.

"W. H. PARK, Manager."

If the Great Western Company were the Company dealing with the Commercial Bank in regard to these bills—if they were responsible, why did not Mr. Park give the guarantee in their favor instead of in favor of the "D. & M. R'y Co.?" This, then, is another instrument showing dealings between the Commercial Bank and the Detroit and Milwaukee Company. I have now another strong circumstance to call your attention to. I have not the paper itself here, because they do not choose to produce it, and we cannot compel them to give up any document they don't like to place in our hands. All we can do is to give them notice to produce; and if they do not do so, our only method is to give secondary evidence of its contents. Well, on the 14th October, 1859, Mr. C. H. Sorley, the Bank's accountant at Hamilton, wrote this letter to Mr. Reynolds:

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 14th October, 1859.

"THOMAS REYNOLDS, Esq.,

"Vice-President.

"DEAR SIR,

"Enclosed I beg to hand you for signature and return, blank certificate of the balance due this Bank by your Company on account as on the 10th instant.

"We are preparing for an inspection, and this certificate, with others, we shall have to show to the acting Inspector, from whom we look for an immediate visit; therefore you will kindly cause the document to be completed and returned at your convenience.

"I am, dear Sir, yours truly,

(Signed)

"C. H. SORLEY, Acct.

"Detroit & Milwaukee R'y Co., Hamilton, C.W."

What, I should like to know, is this asking for? A certificate of the amount due by the Great Western Railway to the Bank? Clearly not. But a certificate of the amount due to the Bank by the Detroit and Milwaukee. And yet Mr. Park says that the Detroit and Milwaukee Company was all a sham!—that this was not a Detroit and Milwaukee account, but a Great Western account—and that if the Hamilton accountant asked for a certificate of the indebtedness of the Detroit and Milwaukee, it was a mistake—he didn't mean it—it was a certificate of the Great Western he wanted! Here is Mr. Reynolds' reply to Mr. Sorley's application.

"DETROIT AND MILWAUKEE RAILWAY,
PRESIDENT'S OFFICE, HAMILTON, CANADA WEST, 15th Oct., 1859.

"W. H. PARK, ESQ.,

"Commercial B'k of C'da.

"DEAR SIR,

"I have the pleasure to return, duly signed, the certificate of the balance due your Bank by this Company, on the 12th instant, \$582,990 63, enclosed in your favor of the 14th instant.

"I am, dear Sir, yours truly,

(Signed)

"THO. REYNOLDS,

"Vice-Pres't."

Clearly an acknowledgment by Mr. Reynolds of the debt due by the Detroit and Milwaukee. In addition to the bonds I have already referred to, there are certain other bonds and transactions between the Great Western Railway Company and the Commercial Bank, on account of the Detroit and Milwaukee Railway Company. You will recollect it appears in evidence that \$200,000 were paid by the Great Western Railway Company to the Commercial Bank on account of the Detroit and Milwaukee Company, through the instrumentality of the bonds of the Great Western Railway Company, instead of exchange being given by them on England. The first given was a bond for \$100,000. This was given direct by the Great Western, in payment of account. But there was also a bond of \$100,000 given, which was collateral to two notes of the Detroit and Milwaukee Company for \$50,000 each. I desire to refer you to the letter on this subject, in order again to shew you how distinct their transactions were kept. On the 19th February, 1859, Mr. Park wrote this letter to Mr. Reynolds:

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 19th February, 1859.

"THOMAS REYNOLDS, ESQ.,

"Vice-President,

"DEAR SIR,

"I am favored with your letter of this day's date, covering a bond of the Great Western Railway Company for \$100,000, proceeds of which will be placed to credit of the Detroit and Milwaukee Railway Company.

"With the second bond of \$100,000, please to send two notes of the Detroit and Milwaukee Railway Company for \$50,000 each at this date, and say the 24th inst., for credit of your Company, as agreed.

"I am, dear Sir,

"Yours faithfully,

(Signed)

"W. H. PARK,"

"Manager."

"Detroit and Milwaukee Railway Company."

"The proceeds of which will be placed to the credit of the Detroit and Milwaukee Railway Company," is the language here used. Let us look at the pass-book and see if it really was carried to the Detroit and Milwaukee account. Look at the pass-book, and on the 19th of February you see a discount of \$100,000 carried to the credit of the Detroit and Milwaukee Railway Company. The notes asked for in the last paragraph of the letter were to be applied to the credit, not of the Great Western Railway Company, but of the Detroit and Milwaukee Railway Company. And still they say that the Detroit and Milwaukee Railway Company is a sham! Well, if so, the sham is kept up on the other side of the water—they travel 4000 miles to perpetuate a sham. After awhile they go to England. Mr. Brydges has already gone there with a view to induce, if possible, the Great Western Railway shareholders to advance a further sum of money to the Detroit and Milwaukee Railway Company. Mr. Campbell, too, went to England. Mr. Ross, who was in the witness box, tells you that Mr. Campbell was there for his health, and that whilst there he had no authority to bind the Bank. Mr. Ross should know—and so also should Mr. Park. But Mr. Park writes to Mr. Reynolds in a very different strain from that in

which Mr. Ross has spoken on this trial. Mr. Park writes indignantly of the absurdity of saying one thing in this country and letting another be said in England. Here is the man here who is authorised to deal with the Commercial Bank, shewing that everything is going on swimmingly in this country, while matters are entirely wrong in England. Now, that is a good deal too bad! I intend to read you Mr. Park's letter, to show you how one of their witnesses, Mr. Park, conflicts with another of their witnesses, Mr. Ross. You heard the rustle of the silk gowns behind me when, whilst the witnesses were being examined, it was proposed to read what they choose to regard as a private letter. It appeared as though a thrill of horror had gone through the Court, which made the silk gowns stand out with indignation. It is a fair presumption to hold that when one officer writes to another officer on business connected with the institutions to which they belong, that their letters are not private; and if they choose to mark their letters "Private," there is no moral code in the universe which will justify them in being so regarded, if the interests of others require their contents to be made use of. So much for the privacy of official letters; I may have, by-and-bye, some remarks to make of private transactions on the part of these gentlemen towards the Detroit and Milwaukee Railway Company. Meanwhile I will read this so-called private letter:

(Private.)

"COMMERCIAL BANK OF CANADA,
"HAMILTON, 16th Novr., 1859.

"MY DEAR SIR,

"Since you were here, I have a note from Mr. Ross, in which he mentions that Mr. Campbell was still in London (at the date of our last advice), that he had seen Mr. Brydges, and that everything looked bright. Mr. B. said the broker had no doubt of placing a million, and the circulars were about being got out. Mr. Campbell had met a Director by chance, and he stated the same thing—not a word about the difficulty you referred to this A. M. Mr. B. knows that Mr. A. H. C. is the authorized representative of the Bank in England. Having business that required full powers, the Board put him in possession of them. Now it seems to me, that if Mr. B. were in any serious difficulty he would at once tell Mr. Campbell of it; and if he were under the impression in reference to the arrangement for collaterals, that you and he would at once complain to Mr. C., and apply for the equivalent of what you wish; Mr. C. having full power. Now I prefer to write to you this interim letter, before taking up the commission closing our interview of this morning, as it will be a full month from the interview of Mr. B. and Mr. C., before any action from this side, can reach them; and it seems to me quite impossible that Mr. Brydges would be in the position of *not being able to do anything for a whole month*, and not to tell the Bank's authorized Inspecting Director that such is the case. Don't you see the vast confusion between the position of Mr. B. before Mr. C., and his position as described by you to-day. I cannot help the comparison, and I may not keep it back, as our intercourse is one of entire candor. Of course you had to represent matters as they were placed before you; but why, in the name of common sense, did not Mr. B. tell Mr. C. of his great dilemma. I can't see through it; but time will reveal. Now, as matters in London have no doubt ere this assumed one or other of the shapes presented by Mr. B. to Mr. C., action on this side would be most uncourteous to the Inspecting Director, without his consent; and the utmost that could be expected from the Cashier would be authority to Mr. A. H. C. to act according to circumstances; explain your wishes. When our authorized representative, in close consultation with yours, and both sincerely desirous of getting this serious matter arranged, does not say a word of the difficulty you speak of, how could you look for the Bank finding a proper reason for the course you wish. Clearly the Cashier has nothing to come before his Board with, and they would only laugh at him. There is no danger of omission on the part of Mr. A. H. C.; and my impression is that it would be better not to bring the discrepancy or apparent want of candour on the part of Mr. B. before our people, to do no good, except to put it on record. Still I will go on if you say so; but my impression that a month was quite sufficient to 'kill' or 'cure' the financial operation about which our respective envoys conversed on the 28th Octr.; and that it had better be left to their wisdom to help each other, and report the difficulties in the way for our guidance on this side. Mr. B.'s silence to Mr. C. would of itself be a sufficient reason for refusal; but mind, the course is as open as this morning it was.

"Yours sincerely,

"W. H. PARK."

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In this connection I must remind you that we have Mr. Brydges's statement on his oath, that at the general meeting, held in London, he declared publicly that the assertion of the Bankers of the Great Western Company having any claim against them was a false calumny. The Bankers were the Commercial Bank; and Mr. Brydges emphatically asserted that the Great Western Company were not in debt to them. The account might have shewn a few thousand dollars overdrawn, but that would hardly be considered a debt; and the charge which drew forth that reply was, that the debt was over a million of dollars. Mr. Campbell, the Inspecting Officer of the Bank, stood by and heard Mr. Brydges's declaration that what had been asserted was quite untrue—that no such debt existed on the part of the Great Western to its Bankers—and he did not repudiate what Mr. Brydges stated; though now they endeavour to affirm that the charge of the Great Western being at that time over a million of dollars in debt to the Commercial Bank was correct! Mr. Ross told you, whilst in the witness box, that Mr. Campbell went to England solely for the benefit of his health, whilst this letter contains a declaration in writing from Mr. Park that he went there as the authorised agent of the Bank. Which is correct? and which incorrect? Is a verbal statement made to-day to prevail against a written declaration set forth at that time? Surely not. But the letter shows, not merely that Mr. Campbell went to England as an officer of the institution, but that he went there with full powers. Indeed, the letter is so full of contradictions to the statement of Mr. Ross, that they seem to confront him at every turn. I should like to know what more there is in this letter of a private character than is contained in any of the other communications I have read to you? There may be something in it which does not strike our dull eyes; but looking at it according to the light I have, I cannot really see in what respect it is less public than the other letters. I have not yet, gentlemen of the jury, called your attention to the cheques of the Great Western Railway Company proper. I will shew them to you that you may see on what kind of cheques the Great Western Railway Company draw, and for what cheques they are liable. Here is a cheque of the Great Western Railway Company of Canada. It is signed by C. J. Brydges and Thomas Reynolds, the one the Finance Director, the other the Managing Director; and that you may see how correct they were in their dealing, I will refer you to several letters written by Mr. Stephens, the Secretary of the Great Western, to Mr. Park, the Manager of the Commercial Bank. From these letters you will mark, when a change takes place in the manner of making out the cheques, how careful they are to note it, that no mistake might arise. The Secretary writes, for instance, on the 18th February, 1859:—

"GREAT WESTERN RAILWAY,
"HAMILTON, CANADA WEST, 18th February, 1859.

"W. H. PARK, Esq.,

"Manager, Commercial Bank,

"DEAR SIR,

"As I am about to be absent from Hamilton, for a week or so, I am instructed by the Directors to request that you will honor the counter-signature of Mr. W. K. Henderson to the Co.'s cheques until my return.

"Yours faithfully,

"W. C. STEPHENS,

"Secretary."

You notice how carefully the officers of the Bank were notified of the change. And the caution was not observed at this time only, but previously. The Bank's account with the Great Western Railway was opened in August, 1857, and here is a letter on this point written in September, 1857:—

" GREAT WESTERN RAILWAY,
" HAMILTON, CANADA WEST, Sept. 7th, 1857.

W. H. PARK, ESQ.,
" Manager, Commercial Bank,

" DEAR SIR,

" During the temporary absence of Mr. Thos. Muir, the Accountant, the Board has instructed Mr. Joseph Pray, whose signature is appended, to countersigned cheques, *pro* Accountant.

" Yours faith'y,

" W. C. STEPHENS,
" Secretary."

" JOSEPH PRAY,
" *pro* Accountant."

Another instance of the caution observed by the Great Western Railway Company, in reference to their cheques. We will go on now, if you please, to the year 1858.

A JURYMAN—We had all this explained yesterday.

Mr. M. O. CAMERON—Yes; but I want to point out to you the bearing of each piece of evidence. All this may be tedious to you, gentlemen of the jury, but the most vital interests are involved; and it is essential that the fullest and best attention should be paid to the case. I will read another letter written in 1858:—

" GREAT WESTERN RAILWAY,
" HAMILTON, CANADA WEST, 26th February, 1858.

" W. H. PARK, ESQ.,
" Manager, Commercial Bank of Canada;

" DEAR SIR,

" Cheque, No. 1,617, dated 22nd, in favor of H. C. R. Beecher, has been improperly issued, without the counter-signature of the Accountant. When presented, please be good enough to pay it, and we will have it properly countersigned afterwards.

" Yours faithfully,

" W. C. STEPHENS,
" Secretary."

Now, in the face of all these letters, they venture to tell us that the cheques drawn by the Detroit and Milwaukee Company are to be held as binding on the Great Western Company, I cannot conceive. There are other letters on this point, but as you appear to be satisfied with those I have already quoted, I will not read them, but proceed to another phase of the case. On the 16th of December, 1858, a letter was obtained from Messrs. Brydges and Reynolds, in which reference is made to the liability of the Detroit and Milwaukee Railway. Previous to that, you will recollect what Mr. Park said on the subject. He said that from a gentleman from the United States he became aware that Messrs. Brydges and Reynolds were building steamboats to run on Lake Michigan in connection with the Detroit and Milwaukee Railway, and that they were proceeding with these boats in their own name. This person it appears spoke to Mr. Park in consequence of his having some interest in the discounting of Messrs. Brydges and Reynolds' notes for these boats. Mr. Park, hearing of the boat-building, communicated with Mr. Ross on the subject. In consequence of that communication they thought it desirable to procure some written statement from Messrs. Brydges and Reynolds. They were afraid that their personal standing might be affected, and they therefore wished to get something so as to

make the Great Western Railway responsible. That is the excuse which Mr. Park gave at that time. We asked that the letter which passed between Mr. Park and Mr. Ross before that statement was signed might be produced, to enable you the better to understand the nature of the transaction. The letter written by Mr. Park to Mr. Ross was despatched the day before the statement was signed by Messrs. Brydges and Reynolds, and Mr. Campbell was said to have been present at the interview had between Mr. Park and Mr. Reynolds. I want you to judge of the nice little trap these gentlemen of the Commercial Bank prepared for the Great Western Railway Company's officers to fall into. They evidently thought, when they got them to sign the statement I have referred to, that they had caught the Great Western Railway Company very nicely. Here is the letter written by Mr. Park to Mr. Ross:—

" WEDNESDAY EVENING, 16th Dec., 1858.

" C. S. Ross, Esq.,

" MY DEAR SIR,

" We have just closed a very agreeable interview with Mr. Reynolds. Mr. Campbell will tell you all when he returns. Meantime, I may say, that we made up our minds to ask him for a formal letter, to put the D. and M. overdraft in business shape, as one with the G. W. R., and it will be given in course. I will forward it to you, retaining copy. We also have a virtual assumption of the Government difference; at least, Mr. R. says 'we are in communication with them,' and you (the Bank) just 'keep apart.' Owns that they saved the money, as per my letter of 2nd January last.

" Faithfully yours,

" W. H. PARK."

See the statement given there, " We made up our minds to ask him [Mr. Reynolds] for a formal letter." We will consider for a moment the position of matters at that time. On the 1st December, 1858, it was found that the Detroit and Milwaukee account had been overdrawn two hundred and sixty thousand and some odd dollars. Previous to this—if you will refer back to a letter, written in November by Mr. Park to Mr. Trowbridge, introducing Mr. Campbell—you will find that they spoke of opening an agency at Windsor, and it was opened in December.

Hon. J. H. CAMERON—No; it was not opened until the 1st of February.

Mr. M. C. CAMERON—But a previous date was also spoken of. That is not, however, a matter of serious consequence. What I desire more particularly to draw your attention to is the language in the letter of the 16th December, 1858. You will see that that refers to liability for overdraft of the Detroit and Milwaukee Company, and not overdraft of the Great Western Company. Recollect also the fact that at that date there was an overdraft of the Detroit and Milwaukee Company. Nor will you forget that Mr. Campbell was not placed in the witness-box to corroborate Mr. Park as to what took place on that occasion. To a corporation or a body of men dealing with millions of money, the effect of a wrong decision one way or the other may be very prejudicial; and thus it is that they are morally bound to produce all the evidence in their power, in order to enable the jury to arrive at the truth. Mr. Campbell, however, is kept out of the case for some reason or other which I am unable to understand. But as to this letter, given by Messrs. Brydges and Reynolds. The exchange which had been asked for was not advanced. There were \$264,000 to issue on the 1st of December, and on the 16th, when this letter was written, there was a great deal more. The whole, however, would be far within the £100,000 sterling, which the Great Western shareholders intended to apply to the Detroit and Milwaukee Railway; so that Messrs. Brydges and Reynolds, who were to receive the money from home, were so far satisfied as to say, on behalf of the Great Western Railway Company, that they would be responsible for the overdraft of the Detroit and Milwaukee Company. But they never had power to pledge the credit of the Great Western Railway Company in part. As a matter of fact and of law, they had not the power to do what they did. But that is not of much consequence, because no evil results flowed, or are likely to flow from it.

The letter written by Mr. Brydges and Mr. Reynolds ran thus:

"GREAT WESTERN RAILWAY, HAMILTON, CANADA WEST,
"16th December, 1858.

"W. H. PARK, Esq.,
"Commercial Bank.

"DEAR SIR,

"With reference to the conversation which took place yesterday between you and Mr. Campbell and Mr. Reynolds, upon the subject of the Detroit and Milwaukee Railway Company's account with the Commercial Bank, we beg leave to state, that the Great Western Company holds itself, liable to the Commercial Bank for all overdraft on the D. & M. Company's account with the said Bank.

"This is quite understood by us; but as you expressed a wish to have it placed on record, we now do so by means of this letter.

"Our D. & M. place were so fully discussed between you and Mr. Reynolds yesterday, that we do not deem it necessary to advert to them now.

"We are, dear Sir, yours very truly,

"C. J. BRYDGES,
"Managing Director, G. W. R. Co.

"THOS. REYNOLDS,
"Finance Director, G. W. R. Co."

Mark the language used here also. They do not say, writing as officers of the Great Western Railway Company, that the conversation referred to took place "upon the subject of our account," but "upon the subject of the Detroit and Milwaukee Railway Company's account." It is the procuring of this letter which Mr. Park appears to be so glad he has accomplished, when writing to Mr. Ross the day before. Messrs. Brydges and Reynolds however always considered this letter a letter of guarantee, and it was never by them regarded as anything else. Did you pay attention to what was said in the witness-box on this point? Mr. Park said it was a letter of acknowledgment, and not a letter of guarantee; and perhaps you did not clearly distinguish the difference between the two words. A letter of acknowledgment would go to show that the dealings of the Bank with the Detroit and Milwaukee were on account of the Great Western, whilst a letter of guarantee would only amount to an undertaking on the part of one company to answer for the debt of another company. In the estimation of the law, there is a marked distinction. The officers of the Commercial Bank, in many other letters, spoke of this as being a letter of guarantee; but having made enquiries as to the legal effect of it, and having been duly schooled, they now say that it is a letter of acknowledgment, and not a letter of guarantee. There is one letter that I regret not having here to lay before you. Mr. Gates, one of the Directors of the Great Western Railway, and one of the customers of the Commercial Bank, whilst on his way home from the sea-side, receives at Montreal a letter from Mr. Park on the subject of this claim. That was the first intimation he had of the claim of the Commercial Bank against the Great Western Railway. These gentlemen had not had their eyes sharpened by lawyers' glances at that time; for on the 27th of August, 1859, Mr. Park writes a private letter to Mr. Gates, in which this passage occurs:—"The G. W. R. collateral bonds for \$200,000 of the D. & M. loan remain in the hands of the Bank of Commerce till the loan is paid, and we have the letter of guarantee of the G. W. R. for all the open balance of the D. & M."—Do you not see how Mr. Park attempts to represent the matter in that letter? Messrs. Brydges and Reynolds did not, as he insinuates, write this letter for the purpose of securing the Commercial Bank to any extent that the Detroit and Milwaukee might draw, but to the amount of the advances which might be made by the Great Western shareholders to the Detroit and Milwaukee. And I say that this money has in point of fact been advanced by the Great Western Railway to the Commercial Bank, and that the Commercial Bank has received all that Messrs. Brydges and Reynolds guaranteed to pay it. According to Mr. Reynolds' testimony, the Commercial Bank had received \$709,000 in cash, exchange, and on account of bonds, from the Great Western Railway; and the Great Western Railway, with the concurrence of the Commercial Bank, paid in other ways enough to make up the full amount of the loans of the Great Western Railway to the Detroit and Milwaukee Railway, of £250,000 sterling. We will

now see if these gentlemen considered they were acting on behalf of the Great Western Railway Company or not. They were, as trustees, to expend for the Great Western shareholders on the Detroit and Milwaukee Railway, not three millions of money, as has been erroneously stated, but \$1,250,000, and to take mortgage bonds as security. The Commercial Bank have a claim against the Detroit and Milwaukee Railway for a vast amount besides. The Great Western Railway Company never intended to lend the Detroit and Milwaukee Railway Company more than \$1,250,000, and the Commercial Bank knew very well that they did not intend to lend any more. Nevertheless they say, "We have got this letter from you; and though we admit having received all the money you had authority to deal with, still you must pay all our demands. It is true enough that we have been imprudent in our dealings, and that we have been improvident; still you, the Great Western Railway Company, must be answerable for our folly, for our want of foresight, and for our neglect of the interests of the institution we represent. We have incurred all the blame, but you must be the sufferer." Such is the absurd and ridiculous position now taken by the Commercial Bank. I desire next to refer you to the minutes of the English Board in London, in order to show you how very guarded they were, and to make it plain that if the Commercial Bank had dealings with the officers of the Great Western Railway beyond the positive instructions of those who employed them, they must bear the consequences. The following minute was entered on the proceedings of the English Board on the 11th March, 1858:

"ENGLISH BOARD, March 10th, 1858.

"PRESENT—Robert Gill, Esq., President, in the Chair; Thomas Cullen, Esq.

"1858.

"DETROIT-AND MILWAUKEE LOAN.

"The Board wishes to call the especial attention of the Trustees in Canada for the application of the loan of £150,000 granted by the proprietors to complete the Detroit and Milwaukee line, to the absolute necessity of not entering into any engagements or undertakings whereby the above amount of advance can by any possibility be exceeded; that sum being the extreme limit to which the Board is justified in going."

You will recollect that the Act of Parliament is precise in its terms, giving Railway Corporations like these power to deal with their funds only in certain ways and for certain purposes. Before, then, any advances could be made by the Great Western Railway Company, on account of the Detroit and Milwaukee undertaking, it was necessary to get a special Act of Parliament, and it was stipulated in the Act that no loan should take place unless with the consent of two-thirds of the Great Western Shareholders. Subsequently, in October, 1858, a loan of £100,000 additional was made; but the minute shews that it was not on any account to exceed that sum:

"ENGLISH BOARD, October 12th, 1858.

"PRESENT—Robert Gill, Esq., President, in the Chair; Thomas Cullen, Esq.

"2004.

"DETROIT AND MILWAUKEE LOAN.

"With reference to the further loan of £100,000 granted by the Shareholders, at the last General Meeting, to the Detroit and Milwaukee Railway Company, the Board wishes it to be distinctly understood:

"That the expenditure of this sum having, by the Proprietors, been resolved to be made, by and under the control of the Directors of the Great Western Railway, it is necessary, before any portion of it is availed of, that a programme be prepared, showing the manner in which it is intended to be appropriated, and which, when approved, must be adhered to as strictly as circumstances will allow, bearing in mind that this amount is granted by the Proprietors specifically for the purpose of providing rolling stock and station accommodation to the line of railway opened by the aid of the former grant.

"That ample mortgage security must be obtained for such advance of funds under legal advice, the rate of interest being as for the previous loan.

(Signed)

"ROBERT GILL."

The minute, authorising the advance of £150,000, was passed on the 10th of March, and, on the 22nd of June, in the same year, the English Board adopted the following minute:

" ENGLISH BOARD, June 22nd, 1858.

" PRESENT—Robert Gill, Esq., President, in the Chair; Thomas Cullen, Esq.

" 2014.

" DETROIT AND MILWAUKEE LOAN.

" Read the joint letter of Messrs. Brydges and Reynolds, of June 7th, on the subject of the Detroit and Milwaukee Line. The Board is gratified at the renewed assurance that the Railway will be opened throughout for the total advance of the £150,000. After our redeeming our promise to the Shareholders, should they think fit to authorise a further and additional Loan, it will afford means to provide for the expected large traffic; but the Board cannot sanction liabilities being incurred beyond the first amount of Loan, on the contingency of a second Loan being authorised hereafter, referring Messrs. Brydges and Reynolds to the minutes of the Board on the subject of March 10th last, No. 1835.

(Signed)

" ROBERT GILL."

Hon. J. H. CAMERON—I never used these minutes, and you have no right to quote them.

Mr. M. C. CAMERON—We are not asking anything as a favor, but we are proceeding in accordance with our indisputable rights. My learned friend says I have no right to read the minutes of the English Board in reference to the loans.

Hon. J. H. CAMERON—You are not to read the minutes I did not put in. You have no right to use any minute which I did not use.

The learned JUDGE—Mr. Cameron has a right only to use those minutes which were put in and proved in evidence.

Mr. M. C. CAMERON—These minutes were, my Lord, put in and read in evidence.

The learned JUDGE—That is a question to be arranged between yourselves.

Hon. J. H. CAMERON—My learned friend had better go on reading the minutes, though they are not on the list.

Mr. M. C. CAMERON—If I mistake not, these minutes were read yesterday.

Hon. J. H. CAMERON—Not these two—not in my hearing, at all events.

Mr. M. C. CAMERON—Yes; four of these minutes were read, one after the other.

Hon. J. CAMERON—I must have been out of Court at the time.

Mr. M. C. CAMERON—Here is another of the 27th July, 1858, which was also read yesterday:

" ENGLISH BOARD, July 27th, 1858.

PRESENT—Robert Gill Esq., President, in the Chair; Thomas Cullen, Esq., William Govan, Esq.

" 2046.

" DETROIT AND MILWAUKEE FINANCIAL POSITION.

" With reference to the joint letter of Messrs. Brydges and Reynolds, on the Detroit and Milwaukee affairs, dated July 12, stating, that owing chiefly—

" 1st. To the deficiency in the actual net receipts of the section of the line open to traffic, compared to the amount estimated to be received.

" 2nd. To the estimate of the Cash amount required to complete the line to Grand Haven, and to furnish sufficient Rolling Stock being unavoidably exceeded.

" 3rd. To the impracticability of postponing payment of all the unsecured debts of the Company until the line is entirely open and yielding returns.

" For these reasons, a further advance of funds to the extent of £100,000 is required before the close of the present year, and a similar sum during next year.

" Resolved—That this Board regrets to have to repeat, as already recorded in its minutes, Nos. 1835 and

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2014, that it feels it to be the duty of the Board, under any circumstances, not to exceed the limit of its advances to the Detroit and Milwaukee Company beyond the £150,000 voted by the Shareholders, until their authority be obtained to extend that limit."

"And the very discouraging Financial position and prospects of the Detroit and Milwaukee Company, now disclosed, convinces the Board, that unless a more favourable and promising statement can be laid before the Proprietors, no further funds will be voted for this purpose."

"The Board is also induced to enquire as to the validity of the security held for advances already made to the Detroit and Milwaukee Company, the effect of the above joint letter having been to create alarm in the minds of the Directors."

And on the 12th of October, 1858, as I have already read to you, the minute was passed for the second grant of £100,000. You have now before you the full action of the London Board in reference to these advances. Mr. Ross stated whilst in the witness box, that he was in the habit of receiving the published reports of this Company, and also of the Detroit and Milwaukee Railway Company. So he had before him the means of knowing that all the Great Western Railway Company were going to do was to advance this further sum of £100,000 in October, 1858. Having arrived thus far, I will have to travel back again to March, 1858, when Messrs. Brydges and Reynolds wrote to Mr. Ross on the subject of obtaining a credit of \$100,000. When they at first entered into the arrangement with the Commercial Bank, there was nothing specific: but in March, 1858, they wrote, making a definite proposal. It is upon the word "joint" contained in this letter that a meaning is attempted to be attached, altogether different from its natural import, but bearing out the view which these gentlemen urge in favor of the Bank's claim. The letter runs thus:—

"GREAT WESTERN RAILWAY,

"HAMILTON, CANADA WEST,

"30th March, 1858.

"C. S. Ross, Esq.,

"Secretary, Commercial Bank of Canada, Kingston.

"DEAR SIR,

"In proceeding with our Detroit and Milwaukee engagements, we find that it would be a great advantage to us, if we had at times the means at our disposal (beyond our ordinary resources) of making settlements with parties whose claims are put down for payment at a distant date. To enable us to make such settlements, and to economise the funds at our disposal (which would be one effect of our being in a position to do so), we have to request that you will lay before your Board our request to be favoured with a credit to the extent of say \$100,000, if necessary, on our joint Detroit and Milwaukee account here.

"The Balance against the Great Western Company is now so much reduced (and will continue steadily to decrease), that we imagine you will have no objection to the arrangement here proposed; and we may mention to you, as some inducement to you, that the notes to be drawn, under such a credit, would be sent down to circulate in the State of Michigan, where the not inconsiderable amount of your paper already sent by us for payment of the indebtedness of the Detroit and Milwaukee Company continues to circulate."

"We desire to adhere as nearly as we can in drawing on our English colleagues to the amounts set down in the schedule we prepared for the gradual completion of the works on the D. and M. Line. And this proposed credit would enable us to do so without the necessity of postponing claims which could, if promptly settled, be so much more satisfactorily arranged."

"Do us the favor to inform us of the decision of your Board at your earliest convenience."

"We are, dear Sir, yours faithfully,

(Signed)

"C. J. BRYDGES,

"THOS. REYNOLDS."

On the other side it will be said that the phrase "our joint Detroit and Milwaukee account here," meant the joint account of the Great Western and the Detroit and Milwaukee Railways. But in truth there was no such account. What was meant was that they should draw for the Detroit and Milwaukee Railway Company, on their joint signatures, to the extent of \$100,000 beyond their deposits; and when you take into account that they were also engaged in a steamboat transaction, you will admit that this was not an immodest request or one which was not likely to be granted. You further observe that Messrs. Brydges and Reynolds suggest that the matter should be laid before the Board at the Bank, and Mr. Ross in writing back says,—“I have received, and submitted to the Board, to-day, your letter of the 30th ult.” You will not find, however, that the matter was laid before the Great Western Board—which is a strong indication that the parties making the application did not consider themselves in any other light than as two individuals in whom the Bank had confidence dealing with this sum irrespective of the Company. The letter making the application is simply signed “C. J. Brydges,” and “Thomas Reynolds;” not “Managing Director,” or “Financial Director;” but in the same way in which they signed their cheques. There is only this difference between the two, that the letter is headed “Great Western Railway, Hamilton, Canada West.” But that was owing to their using paper with a printed heading, and means nothing. They wrote in reference to an account opened between them and the Bank, and with which the Great Western Railway Company had nothing to do. It is true they say “our joint Detroit and Milwaukee account;” but, as I have said before, they had no joint account with the Great Western Railway Company. A joint account would be an account in which the balances of the two parties were kept together; but the Great Western Railway Company had one account for their transactions, and the Detroit and Milwaukee Railway Company had another account for their transactions—that is, for the transactions to which these cheques relate. So that the term “joint,” in reference to these companies, would be decidedly inappropriate; and so also when you see the cheques signed by these gentlemen with the official designation at the top, “Detroit and Milwaukee account,” it shows that these gentlemen are jointly drawing in regard to this account, and not the Great Western at all. On the part of the Bank, no doubt they will say that the Bank did not so consider it; and to show that such was the case, they will assert that when they made a minute of this application, they entered the minute as though the application was from the Great Western Railway Company. To that I reply, that this letter did not authorize them to make any such minute. These gentlemen did not sign as officers of the Great Western Railway Company, and the Commercial Bank did not ask them to sign as such; though it was required that a different kind of cheques were to be used in regard to transactions by which the Great Western Railway Company were to be bound. Thus you will observe that their minute, assuming it to have been made at the time, would not show that Messrs. Brydges and Reynolds made the application for the Great Western Railway Company. In addition, too, to that letter, we have the declaration of Messrs. Brydges and Reynolds under oath, that they never intended it to be as it is now represented by the Bank. There are a vast number of other letters on the affairs of the Detroit and Milwaukee Railway Company, which it may be just as well to call attention to. On the 21st of May, 1859, Mr. Park writes to Mr. Reynolds in this way:

“COMMERCIAL BANK OF CANADA,
“HAMILTON, 21st May, 1859.

“MY DEAR SIR,

“Mr. Mingaye will get the money at Windsor as requested. You can make a note of the Company's to order of yourself, as V. P. thereof, for the wages; say at 45 days, payable at our Agency at Windsor. Send it to me, and I will discount it for you.

“Many thanks for the reports and newspapers. Wonder who that Manager from Montreal is?

“Yours, very truly,

“W. H. PARK.

“THOMAS REYNOLDS, Esq.”

On the 28th of March, he writes a letter in these words:—

"COMMERCIAL BANK OF CANADA,
"HAMILTON, 28th March, 1859.

"THOMAS REYNOLDS, Esq.,

"MY DEAR SIR,

"As promised, I will renew the \$20,000, Fuller & Co.'s Note for the D. and M. Railway, though it carries the amount past the June settlement. If I were to lessen the amount of what the balance payable to us in June might be, by passing credit of D. and M. account further renewals, it would look at Kingston as avoiding to that extent the June settlement in sterling exchange from G. W. Railway. I therefore return Notes \$1,000 and \$5,000 (originals, of course, protected), that you may put in a note for the amount payable 12— (here); and, in case you adopt this time, then the note of the Company, without endorsement will do, and the enclosed can be destroyed. I have thought the matter carefully over, and I am convinced that it would not do to renew any of the Company's paper due this side 12th June. We will want all the exchange we can get for cover of our English credit, and having advanced largely on D. and M. notes to Contractors, due next Fall, we will have a very large amount added to the \$100,000, due January, 1860, to carry over. True, we could get the \$9,538 in August, but we will require it in June, and look for at least £15,000 sterling; then, if our calculation and estimate of the position of the accounts should turn out correct, I will give you a memorandum of our estimates, that you may correct our anticipations if we are in error. If the renewal till 12—15th June of the enclosed is any object, then I will pass the Company's note cheerfully.

"In wishing to have these bills in this shape, I believe I am taking the best course for you, and I hope to have your approval after the explanation I have given.

"I remain, as always, my dear Sir, yours very truly,

(Signed) "W. H. PARK."

"I add, in terms of the above, your No. 272, \$7,294 08, just sent in by Mr. Cockayne."

One of the reasons given by these gentlemen for saying that they were not dealing with the Detroit and Milwaukee Railway Company was, that that Company was in an embarrassed condition, and they would have nothing to do with it; and yet they say here that they have discounted largely for the contractors. This, however, did not really amount to anything, as the contractors were men of position. Still all these circumstances go to prove that they were dealing with the Detroit and Milwaukee Railway Company. Here is a letter addressed to Mr. Brydges and Mr. Reynolds, as President and Vice-President of the Detroit and Milwaukee Railway Company:—

"COMMERCIAL BANK OF CANADA,
"HAMILTON, 29th October, 1858.

"Messrs. C. J. BRYDGES, President, and
THOMAS REYNOLDS, Vice-President,
Detroit and Milwaukee Railway Company,

"GENTLEMEN,

"I am in receipt of your favour of this day's date, with list of your bills maturing at Merchants' Bank in November, amounting to \$33,666 49c.

"I have advised our agents, in advance, to protect these bills; and -for additional security- I will forward our Exchange in retirement *four days* previous to their maturity.

"I am, Gentlemen, yours very truly,

"W. H. PARK,

"Manager."

"Hamilton."

And here is another from Mr. Park, written as early as the 11th January, 1858:—

"COMMERCIAL BANK OF CANADA.

"HAMILTON, 11th January, 1858:

"THOMAS REYNOLDS, ESQ.,

"DEAR SIR,

"I am much obliged for your note in reference to the N. Y. C. balance, and am glad that I was in error.

"I am somewhat disappointed to find that the money for the employees, Detroit and Milwaukee Railway Company, has all been taken in large notes. If we are to have any chance for circulation, it will be by assorting with notes of small denomination. Such at least is our experience of circulation."

"Yours faithfully,

"W. H. PARK,

"Manager."

There is a subject which I am about now to allude to, which I have already given the one to, to some extent, having reference to the reason of the Commercial Bank dealing so liberally with the Detroit and Milwaukee—to their throwing good money after bad, in the hope that it would all come back. On the 9th of April, 1858, Mr. Ross wrote to Mr. Reynolds, as follows:—

"COMMERCIAL BANK OF CANADA,

"KINGSTON, 9th April, 1858.

"DEAR SIR,

"I returned from New York late this afternoon, and take the earliest opportunity of addressing you, to advise that Mr. Park communicated your wish or opinion, that it would be injudicious for me to see Mr. McClelland about the D. and M. Bonds. On this I should have acted, but was obliged to see Mr. Fleming (late Manager, and now one of the liquidators,) about a property here held for the Western Bank, and sundry other things connected with our late account.

"When these matters were discussed, Mr. Fleming said he would be obliged by my opinion about other Canadian and American affairs he had in hand, and allusion was made to a variety of things. I could not, of course, avoid answering his questions; and afterwards, allusion was made to the D. and M. Bonds. Mr. McClelland then said, 'You had been asking for some;' and I asked at what price they held them, as I held some, and might take a few more, if at a price to suit. Mr. Fleming then said, 'What did yours cost?' I replied, '56 per cent. with accrued coupons included.' He said he would not think of selling a few; that they (the M. Bank) held a large amount *absolutely*; that they were quite good, and would be placed in Glasgow or London without difficulty, at par, in a year or so; that the liquidators could borrow at 4 per cent., and thus save in that way by holding over. He said much more, showing me he quite understood their value. I referred to quotation of 64 per cent. and 57½ for 7's, the two days previously, and said that I thought the 8's could be got about 55 per cent., with May coupons from Contractors. He then said, 'Would you make any proposal for any sum of them?' I replied that that would require some consideration, and that I must see Mr. Silliman, while I thought I might venture to act for you at a price such as you could buy for elsewhere. I saw Mr. Silliman,

and returned, saying to Mr. Fleming, I could take \$50,000 if he would not sell \$30,000 at 55 per cent., including coupons. He said that Mr. McClelland and himself had discussed the matter again, and decided not to sell any, but hold all, take all to Glasgow, and hereafter get them placed at par, 'through friends and *Great Western Shareholders*,' as he expressed it. Of course, nothing was to be done, and there the matter rests. I feel that I made no blunder, since the matter was introduced, in what occurred, and it was evident no offer could have got them. The result is, that these people will make them known in London, and make a market for them.

"I have felt it due to you and to myself, to inform you of what passed, and that your expected purchases have not been marred through any action of mine.

"It occurs to me that it might be judicious to hold off purchasing any more at Detroit for a month, to let the holders there see New York quotations, and that demand from us in Canada has ceased apparently. Pray, consider the expediency of such a course.

"I also think it will be well your friends in London should by-and-by report favourably to enquirers, for the sake of all concerned. Mr. Park may have told you we offered to arrange for payment of the coupons in London, in 1856; but my letter was not replied to.

"It has also occurred to me, that it is needless to send the coupons on those held by Mr. Campbell and myself to New York for payment. It would save you the commission and New York funds to send them to Hamilton. Shall I do so?

"THOS. REYNOLDS, ESQ."

"Yours faithfully,

"C. S. ROSS."

Here we have a declaration from Mr. Ross, that he held Detroit and Milwaukee securities; and one would naturally suppose that if Mr. Ross privately held these securities, it would be a matter of interest to him that the road should go on. To these and other officers of the Bank who dealt extensively in the bonds of the Detroit and Milwaukee Railway Company, it would be little short of absolute ruin if the undertaking was not prosecuted to a successful termination. It was therefore very material to them that the Bank should advance its funds, to prevent, if possible, the road from falling into public disgrace. The letter I have read is simply serviceable as proving how business is carried on in reference to bonds and securities. It may serve to open your eyes as to the manner in which stocks may be kept up or let down. You see here the way in which things are done by gentlemen high in social position and influence, and who do not see any impropriety, anything wrong, in such a course. But plain, blunt individuals, like myself, who have the misfortune to have been born in Canada, and who don't know much about stock-jobbing and speculation, are apt to incline to the opinion that proceedings like these do not accord with our sense of moral right. Now, that is the way in which Mr. Ross writes. And, as I have already said, a cue may be found for the reasons of the advances being made by the Commercial Bank to the Detroit and Milwaukee Railway Company in the fact that securities were held by those gentlemen in this way. Mr. Park says that this is a private matter entirely, that we have nothing to do with, and Mr. Ross follows him in the statement that it is not our concern. But I would ask you, gentlemen of the jury, whether you do not think we here meet with considerations of great importance—whether they were not, in point of fact, entrusting their own means to this Company, to which they now declare the Bank would not advance its funds, because it was bankrupt? For my part, I believe that notwithstanding all that has been said against the Detroit and Milwaukee Railway Company, it is now doing a reasonable amount of business, and that in due time it will recover itself. It is more than evident that the Commercial Bank officers themselves did not look upon its condition as wholly desperate; for when the railway was sold under the foreclosure of the mortgage, the Commercial Bank were careful to stipulate that no arrangement which was made should prejudice their interests in the concern. I have no doubt that if time is allowed to the Company, the Commercial Bank will not lose after all—at all events not to anything like the extent they fear they may, unless they make the Great Western Railway Company liable. It has appeared in evidence that in one transaction at least, the Bank were themselves purchasers of the securities of the Detroit and Milwaukee Railway Company, and that too at a time when, as they now say, the Company were insolvent. I assert that the fact of their

purchasing these securities is quite antagonistic to the position they now assume, that they would not credit the Company at all; for the circumstance of their purchasing the securities shows that they had confidence in the Company. A letter has been read from Mr. Park to Mr. Reynolds, in reference to the powers of Mr. Campbell. Mr. Park was the manager of the Bank in Hamilton, and he must have known something of the duties and powers of Mr. Campbell. Well, we find Mr. Campbell in England. Mr. Brydges is there also. The hopes of the Detroit and Milwaukee Railway Company have been extinguished, because the shareholders of the Great Western Railway Company were not disposed to increase their loan. Thence find Mr. Campbell representing to Mr. Brydges the necessities of the Bank, and the desirability of covering the account with the Joint Stock Bank in London. He therefore asks Mr. Brydges for two promissory notes of the Detroit and Milwaukee Railway Company, for £25,000 sterling each; and Mr. Brydges there and then, in England, draws two promissory notes of the Detroit and Milwaukee Railway Company, which are accepted by Mr. Campbell, the gentleman who had full authority in England to act for the Bank. These notes were forthwith deposited by Mr. Campbell in the Joint Stock Bank, where the Commercial Bank of Canada kept their London account, and a receipt was taken therefor. I have read some transactions of Mr. Park, and some of Mr. Ross. I will now read you a letter from Mr. Campbell, to show that he also concurred in the view that the Commercial Bank were dealing with the Detroit and Milwaukee Railway Company, and not with the Great Western Railway Company:

"LONDON, 23rd Novr., 1850.

"U. J. BRYDGES, Esq.,
"Pres't,

"DEAR SIR,

"I have this day received from you two notes of the Detroit and Milwaukee Railway Co., for twenty-five thousand pounds stg. each,—amount, when paid, to be passed to credit of the Company with the Commercial Bank of Canada at Hamilton.

"Yours truly,
"A. H. CAMPBELL,
"Insptg. Direct. C. B. of C.

"Det. & Mil. Ry. Co."

Now, I would ask any man of ordinary common-sense, if that letter does not fully prove that the Commercial Bank looked upon the Detroit and Milwaukee Railway Company as their debtors? The point to be decided is whether the Great Western Railway Company were original debtors, or whether it is the Detroit and Milwaukee Railway Company who are the debtors and the Great Western only the security. Whilst on this branch of my subject, I must read another letter written by Mr. Campbell, whom they did not call:

"COMMERCIAL BANK OF CANADA,
"KINGSTON, 23rd March, 1861.

"THOMAS REYNOLDS, Esq., Hamilton."

"DEAR SIR,

"We are this morning favoured with your letter to Mr. Ross, of date 31st Dec'r last. There is a slight mistake in the wording of it which might some day cause misapprehension.

"In the second line from the bottom of the first page, you say that the Bonds were to be handed over as collateral, for claims 'upon this Company,' which would mean the new Corporation, your letter being headed D. & M. Railroad Co'y; whereas, the arrangement having been made before the old Co'y became defunct, the sentence ought to have read claims 'upon that Company,' whilst the words '\$200,000 of this Company's Bonds,' in the fifth line of the same page, ought to have read '\$200,000 of the Det. & Mil. Railway Co.'s Bonds.' I return the letter for correction of these errors, and am,

"Dear Sir, yours truly,
"A. H. CAMPBELL, Cash'r."

"P. S.—Please add to the latter also—" and we hereby agree to execute any further document which may be found necessary to the Commercial Bank of Canada holding these said bonds as collateral security for any claims the Bank may have in respect of debts of said Detroit and Milwaukee Railway Company."

This proves that they were not taking these bonds for a debt of the new corporation, but for a debt of the old corporation; and Mr. Campbell points out a mistake inadvertently made. If you recollect Mr. Brydges' evidence, at the time of the giving of these two promissory notes for £25,000 sterling each, he arranged with Mr. Campbell that the \$200,000 of bonds of the Detroit and Milwaukee Railway Company, which were in the hands of the Southern Railway Company, should pass over into the hands of the Commercial Bank and be security for these notes. And it is in reference to that transaction that the letter I have just read was written. You were told that when the purchase of the Detroit and Milwaukee road took place, it was made subject to existing liabilities. There were about seven millions of bonds of the Detroit and Milwaukee Railway, and there were these \$200,000 of bonds held by the Bank, which would stand before the claim of the trustees. Thus, then, there was a claim upon the road in favor of the Commercial Bank, and the Commercial Bank seemed to be aware of this, for they took care to see that nothing was done to invalidate their claim. I will now, again, gentlemen of the jury, have to refer to a letter of Mr. Brydges. I am, perhaps, trespassing upon your patience in taking up so much of your time; but I am sure that you will bear with me, when you consider the responsibility which rests on my head. It will not do for me to leave one stone unturned which in my judgment can tend at all to uphold the interests of those whom I have the honor to represent. I am not desirous of misleading you in the slightest particular. I am anxious that you may arrive at the truth of the case, so that we may receive at your hands a just verdict. I do not advocate the cause of the Great Western Railway Company with the desire to do the Commercial Bank any wrong. Far from it. If justice is on the side of the Commercial Bank in this case, let ruin, if it must, fall on the Great Western Railway Company. But there are many considerations to be adduced why you should not cast such an immense burden on the shoulders of this Company. Now, as to the reference by Mr. Brydges, on page 65 of the red book, to the Detroit and Milwaukee loan, you will readily believe that the representations there made are truthful and correct. But my learned friend will put one construction on the statement there made and I shall put another. I maintain that it sustains the position now assumed by the Great Western Railway Company: "Not long after I arrived in Canada," Mr. Brydges writes, "my attention was called by those largely interested in this Company, to the benefit which might accrue to our own Line from the traffic of the northern part of the State of Michigan. Amongst others, Mr. Samuel Laing, M.P., who was then a large shareholder, wrote me, amongst other matters, to this effect, on 10th Feb., 1854, in which letter he stated that he did so after 'several important discussions with our leading shareholders' in England, and because he thought it 'very desirable to put me confidentially into full possession of the views generally entertained.'" You will thus see that Mr. Brydges considered his instructions were to make arrangements with the creditors and for the disposal of pressing claims, so that the line might be worked with profit and to advantage. In another part of this same document, Mr. Brydges speaks of the debt. He says,—"I must add that much more than the loan of £250,000 has been expended in the completion of the Line, and supplying it with rolling stock, stations, &c., and for work actually executed since the date when the first loan was granted. The actual outlay for new works, &c., entirely irrespective of these payments, interest on bonds, or debts which existed before we assumed control of the Company, has been £302,541, or £52,541 more than the amount of the loans made by this Company; the latter amount having been provided out of the traffic of the Line, and money raised in America. These facts were fully explained to the Accountants." Let me ask you, is there one word from Mr. Brydges saying that he pledged the credit of the Great Western Railway to the Commercial Bank? There is not a syllable of the kind from beginning to end. You would have seen, perhaps, a little by-play on my part yesterday, in reference to this letter of Mr. Brydges. This is a printed document, which is not, strictly speaking, evidence. I desired, if possible, knowing the force of my learned friend's eloquence—aware how easy it is for him to make the worse appear the better cause—to have had the last word with you; and if I could have made him call Mr. Brydges, I should have had it. That was the reason why I objected to this document being received. I felt, however, that it was necessary for my own sake that Mr. Brydges should be called, so that by his verbal testimony you might have placed before you a

fair representation of the circumstances as they actually existed. Now, gentlemen of the jury, in the year 1850, and in the month of October, a difficulty took place between the Great Western Railway Company and the Commercial Bank. I do not know that that difficulty was not brought about by the Commercial Bank, in order that they might take the stand which they certainly have taken since that time of making this direct claim against the Great Western Railway Company, instead of against the Detroit and Milwaukee Railway Company. It seems that the Wyandotte Rolling Mills Company had received bonds from the Great Western Railway Company, which bonds, by an arrangement entered into between the Great Western Railway Company and the Wyandotte Rolling Mills Company, were to be discounted, and the discount charged to the Great Western Railway Company. The Commercial Bank discounted the bonds, but instead of discounting them for the Great Western Railway Company, they purchased them from the Wyandotte Rolling Mills Company at a discount of ten per cent.; and the bonds being charged to the Great Western Railway Company, the deduction was made of the ten per cent. discount. The Great Western Railway Company objected to this, saying, that these bonds were in the nature of cheques, and ought to have been cashed according to the amount they bore on their face. There arose in consequence a discussion between the Great Western Railway Company and the Commercial Bank on the subject, the latter asserting that they bought the bonds from the gentlemen of the Wyandotte Rolling Mills Company, and that they had a right to buy them at any discount for which they could get them. The Great Western Railway Company, on the other hand, regarded it as a transaction of their own. Some correspondence took place on the subject, and in one of his letters to the Great Western Railway Company, Mr. Ross says in effect:—"Why, you talk as though you were not liable for the Detroit and Milwaukee account." In that letter, too, there is language used by those who are now urging this claim, to which I desire more particularly to refer you. I have already called your attention to the fact that previous to their coming into court, when speaking of the letter of the 16th December, 1858, they referred to it as a letter of guarantee. Now a guarantee means an undertaking collateral to another undertaking. Such is the meaning attached to the term "guarantee." They admit, then, that they never considered the Great Western Railway Company their debtors, but the Detroit and Milwaukee Company; and when they got the letter of the 16th December, 1858, they only intended it as a security that the amount which was to pass through the hands of Messrs. Brydges and Reynolds in the shape of loans from the English shareholders, should be applied to the payment of the balance then due to the Bank. They now say that that letter is a direct acknowledgment of the liability, and not a collateral undertaking at all. I have said that whenever they spoke of the letter, before they had legal spectacles on their noses—they always spoke of it as a collateral guarantee. On the 28th October, 1859, for instance, Mr. Ross, writing to the Secretary of the Great Western Railway Company, says: "Subsequently the Company [the Great Western] desired to have transactions of their Branch, the Detroit and Milwaukee R. R. Co., conducted under a separate account, and under the guarantee." And we shew you receipts that there were positive acknowledgments by Mr. Park of his receiving moneys deposited at the Bank by the Detroit and Milwaukee Railway Company in settlement in part of the overdraft of that company. I assert that all this shews this to have been a letter of guarantee—nothing more or less than a collateral undertaking to be answerable for the debt of another. I have before me another important letter bearing out very strongly the view I have already laid before you. It is a letter from Mr. Park to Mr. Reynolds, dated August 28rd, 1859:—

(Confidential).

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 28rd August, 1859.

"THOMAS REYNOLDS, Esq.,

"MY DEAR SIR,

"It will, of course, reach you that we are not giving the usual facilities for assistance in removing the produce this season; and I think it well to let you know the cause.

"There is not so good a centre in all Canada, I am satisfied, as this, for purchasing directly from the Farmers, and concentrating from out-stations, all kinds of produce, and, of course, none in which you are so directly interested as a Company. For the first reason, demands for money at this point are large, particularly

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when the crop is abundant, and the Bank has been, till this season, in the habit of taking up all the credits asked for where there was character, and undoubted safety. As the result of this, and, to some extent, the apathy of other offices here, we had gathered round this office *all* the reliable dealers in produce in this locality. I state a fact, which has been expressed by our customers, this week, as a reason why we should go on. They say, 'You have it all in your own hands; and we want to remain, and make our business pay the Bank.' But it cannot be done; and we have had, I may say, a general leave-taking. I hope they will get supplied elsewhere.

"I regret to say that the cause lies with our Railway connection; and I heartily wish it were not so; and I know you did not desire such a *dénouement* nor anticipate it. The fault lies with ourselves in allowing the accounts to absorb for the benefit of the people of Michigan what our charter contemplates for local trade.

"The Loan now stands as follows:—

Debit balance of D. & M. Acc't.....	\$475,370 88	
Steamboat Account.....	85,000 00	
A. P. Stewart's Account.....	76,500 00	
		\$587,370 00
Bond discounted by authority of Head Office to prolong an equal amount paid to Ward in May	\$50,000 00	
Loan guaranteed to the Bank of Commerce, N. Y.	200,000 00	
Sundry Bills discounted for S. C. Ridley and others, to enable them to complete works on both lines, but chiefly D. & M., as supposed necessary to develop traffic	95,505 00	
		345,905 00
Total Loans to D. & M. Railway		\$932,905 00
Great Western Railway Bonds from Ridley, Pease, and Tuson & Co.....	\$54,641 00	
Less balance at credit of G. W. R.	16,117 00	
		38,524 00
		\$971,529 00
Duncan, Sherman & Co., and other sums in a few days.....		30,000 00
Total.....		\$1,001,529 00

"Such advances in proportion to capital, are, I think you will admit, quite sufficient to disarrange any Bank's affairs; and our only excuse to the Stockholders would, I fear, be far from tenable in extenuation.

"I feel it to be my duty to put you in possession of these facts; and if I were to add the position which Mr. Ross finds the foreign accounts in consequence, and the reduced figures of other resources, you would realise fully the unexpected mischief of these advances. Please read this letter to Mr. Brydges, that he may, in London, be fully impressed with the necessity of putting your accounts in a position of safety to the Bank, and credit to yourselves, and to enable us to take up our usual business, and resume, if possible, our forfeited connections.

"We know well that you could not foresee the immense falling off in traffic; but had it been as large as there was reason to have hoped it would, it is now evident that it would have been far from keeping the accounts in a position to meet valuations.

"Yours faithfully,

"W. H. PARK."

You have here a *resumé* of all the claims of the Bank at that time. I must also read you the letter of Mr. Park to Mr. Reynolds on the 29th July, 1859:—

"COMMERCIAL BANK, C. WADA,
"HAMILTON, 29th July, 1860.

"MY DEAR SIR,

"Before asking the consent of the Board for the carrying over of the steamboat loan, I wish to anticipate a question which will naturally be asked, whether you cannot let it merge into the general settlement in Nov. out of traffic and the Outr. Board vote. The original arrangement promised the return to us in Sept. next, and of course that is in mind.

"I fear that the \$1,000 a week will be considered tedious, but the matter will have the usual consideration of all your other matters.

"Yours,

"W. H. PARK."

"T. REYNOLDS, Esq."

In this letter, you see, Mr. Reynolds is asked to allow them to merge one set of transactions with the transactions of the Detroit and Milwaukee Railway Company. On the 23rd of January, 1860, Mr. Park again writes, actually, this time, giving Mr. Reynolds his title of Vice-President of the Detroit and Milwaukee Railway Company—

"THOMAS REYNOLDS, Esq.,

"Vice-President,

"Detroit & M. R. Company.

"DEAR SIR,

"Mr. Campbell having heard that the D. & M. Bonds, \$200,000, hypothecated to the Michigan Southern Railway Co'y, and now deposited in New York, had been attached by the Howards; and that others holding obligations of the D. & M. Co'y, were about to follow suit; he, fearing the result of these moves, went down personally to New York, and attached the whole amount of the \$200,000 8 per cent. Bonds of your Company in the Trustees hands, under a claim for the Interest Bonds due 1 Jan'y instant, unpaid, held by him. This will prevent the Bonds so attached falling into other hands; but it would simplify matters, and prevent all chance of any one else attaching, if the D. & M. Company will assign them now, subject to the claim of the Howards', if any.

"It would seem to be best course for the Co'y to assign, as requested; but, in absence of this, the party holding the claim must proceed in the usual way.

"I am, dear Sir,

"Yours truly,

"W. H. PARK."

"Hamilton, 23rd Jan., '60."

Mr. Campbell is not called into the witness-box to explain this letter. Now, gentlemen of the jury, I have gone through the correspondence as far as I intend to follow it; and I will recapitulate, calling to your view again as briefly as possible the points on which I rest my case, independently of the direct testimony of Messrs. Brydges and Reynolds, that they did not pledge the credit of the Great Western Railway Company in this matter, and that all that was done in signing the letter of the 16th December, 1858, was to give a collateral undertaking, and that previous to that time the Great Western Railway Company were not bound in any way. I will now shortly revert again to the circumstances. First, there is the pass-book, which is evidence as between two private individuals as to the manner in which the account was kept. I will ask you just to suppose that you were empanelled not to try whether the Great Western Railway Company were indebted to the Commercial Bank, but whether the Detroit and Milwaukee Railway Company were so indebted, and the Commercial

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Bank, with a view to the proving of their claim, brought forward these cheques of the Detroit and Milwaukee Railway Company, and this pass-book, and offered these as evidence before you, I venture to say that you would not have listened for a moment to the allegation that the Detroit and Milwaukee Company were not the debtors—that though it was true their principal officers had kept these books—that though there was no dispute about their President, Vice-President, Secretary, and Accountant, having signed these documents and cheques, nevertheless it was not they who were liable, but the Great Western Railway Company. Such a statement would be looked upon as an absurdity. Supposing further, that the Great Western Railway Company were embarrassed in circumstances, and that this action was brought against the Detroit and Milwaukee Railway Company, there is not a man of reason in the land who would declare that the debtors were not the Detroit and Milwaukee Railway Company, but the insolvent Great Western. And if that would be so in such a case, why reverse the rule in the present instance? If the Detroit and Milwaukee Railway Company were considered good, they would seek to make them liable on this evidence. I am satisfied that every man on the jury would consider them liable. Well, if they would be liable then, they are liable now; and they being held liable, the Great Western Railway Company cannot be held liable too. They do not pretend, in bringing forward this case, to show that the Detroit and Milwaukee Railway Company are in the slightest degree liable. They throw that company aside, and say they will have nothing to do with them. Yet nearly all the documents produced in evidence with the view to establish their claim, are documents given by the Detroit and Milwaukee Railway Company. So much for the pass-book. I turn now to the books of the Commercial Bank, and point to the alterations in those books. Who directed these alterations to be made? and at whose promptings was the order given? Why did they not leave the entries in the books as at first made, and say if mistakes had been occasioned that they were caused by inadvertence? There is no doubt in the world as to how these accounts were intended to be kept. But desiring afterwards to do wrong, they altered their books so as to assist them in so doing, though the alterations were made so bunglingly as to challenge attention. I say that no man of respectability and standing would have so altered his ledger. If he had made mistakes in charging the accounts, he would have trusted to an honest explanation to set them right. Instead of erasing and making new entries on his ledger, he would have said plainly and fearlessly that though it so appeared on his books, he did not intend that the Detroit and Milwaukee Railway Company should be his debtors. So much for the ledgers, gentlemen of the jury. We will now, if you please, take the receipts. I will just read one signed by Mr. Sorley, and one signed by Mr. Park, as a sample of the whole. The first is as follows:—“The Detroit and Milwaukee Railway Company, to Commercial Bank of Canada, Hamilton Branch, Dr. March 21, 1859. For an account of overdraft due this office by said Railway Company, payable through a cheque upon the Windsor Branch. \$3,000.” If you took Mr. Park's view, you would say that there was never any overdraft at Windsor—that there was never any overdraft by the company, indeed, except the overdraft at Hamilton. Here is Mr. Sorley's receipt:—“\$3,000. Received of the Detroit and Milwaukee Railway Company the sum of \$3,000, to be placed at the credit of that company on their account at this Bank, at Hamilton. C. H. Sorley, pro Manager. Hamilton, 21st March, 1859.” Now, I will read one signed by Mr. Park, the Manager, himself:—“The Detroit and Milwaukee Railway Company, to Commercial Bank of Canada, Hamilton Branch, Dr. March 18, 1859. [The same month.] For an account of overdraft due this office by said railway company, payable through a cheque upon the Windsor Branch. \$3,000. W. H. Park, Manager.” I should like to know what stronger evidence you could have of the dealings of the Commercial Bank having been with the Detroit and Milwaukee Railway Company? So much for the receipts. We now come to the bundle of a hundred letters or more addressed to Mr. Reynolds, as the Vice-President of the company. There are also four letters addressed to him as the Finance Director of the Great Western Railway Company, and four addressed to him as the Vice-President of the Detroit and Milwaukee Railway Company—the two kinds of letters being written to him on the same day by the officers of the Commercial Bank, and on the business of the two Railway Companies respectively. This alone is a strong indication that the Commercial Bank considered that they were dealing with two railway companies distinct in their character. I come now to the bonds which they took of the Great Western Railway Company as collateral security for the Detroit and Milwaukee Railway Company's notes. Then there are the bonds given by the Great Western Railway Company, and intended by them as a payment; and there are also the

four notes given to the Bank of Commerce. We may refer to the statement of Mr. Ross, as to the action in regard to these notes being taken as that of a private individual, and we may also refer to his letter to show that he was acting on behalf of the Bank. I would recall to mind likewise the fact that Mr. Brydges declared before the meeting of Railway Shareholders in England that the Great Western Railway Company were not in debt to their bankers, and that Mr. Campbell, an officer of the Commercial Bank, heard it, and never contradicted it or remonstrated with him about it, but that after that declaration, Mr. Campbell took notes of the Detroit and Milwaukee Railway Company on that Company's account. And further, that in the letters of the Commercial Bank on the subject, they speak of the letters given by Messrs. Brydges and Reynolds on the 16th December, 1858, to be only a letter of guarantee. So that throughout there is no circumstance, as far as the documents are concerned, to indicate that they were not dealing with the Detroit and Milwaukee Railway Company, and that they were dealing with the Great Western Railway Company. Perhaps, you recollect the declaration of my learned friend, Mr. Keele, that we should not be able to produce any correspondence to indicate that they had dealings with the Detroit and Milwaukee Railway Company. But how astonished must he have been when these hundred letters were produced and placed in the hands of witnesses, who said the one was Mr. Park's handwriting; another, Mr. Ross'; a third, Mr. Campbell's; and all going to prove that the Detroit and Milwaukee Railway Company was clearly recognised as a corporation having a distinct and separate existence. Then you have the positive testimony of Mr. Reynolds, Financial Director of the Great Western Railway Company, and Vice-President of the Detroit and Milwaukee Railway Company, as well as the equally positive evidence of Mr. Brydges, the Managing Director of the Great Western Railway, and the President of the Detroit and Milwaukee Railway Company. They both gave their evidence clearly and distinctly. There was no equivocation on their part, no hesitation, no irrelevant observations, no insinuations and empty smiles in the place of answers to the point. You saw nothing of that about them. They appeared before you as clear-headed, business men, having everything plainly and distinctly before them. They knew their business, and they acquitted themselves in a business-like manner. These are the men who are deserving of credit, when contrasted with the principal men called on the other side. I ask these gentlemen of the Commercial Bank what took place at the Rossin House? The reply is, "I can't recollect." "Had you a meeting in New York?" "I can't recollect. But I knew I saw these gentlemen in New York." "What was the subject of conversation?" "I can't recollect." Messrs. Brydges and Reynolds recollect all these things distinctly; but the gentlemen of the Commercial Bank have the convenient faculty of forgetting everything which is unpleasant for them to bear in mind. I ask you if the recollection of these two gentlemen is not worth more, when they speak of antecedent circumstances, far more than the sorry memories of all the gentlemen of the Commercial Bank put together? But I forget, Gentlemen of the Jury. There was, they admit, something said about account No. 3. They say that at the Rossin House in Toronto, Mr. Ross objected to give credit to the Detroit and Milwaukee Railway Company, though the letters of Mr. Park, since written, show that the credit was given to the Detroit and Milwaukee Railway Company. But Mr. Ross said that these gentlemen were gentlemen of respectability and standing, and the account might be opened as Great Western Railway Company's Account, No. 3. Upon that, it is stated that Mr. Reynolds said that would not do—that it would lead to confusion of accounts. An excuse had to be found for their system of book-keeping, and they profess from the conversation they allege to have taken place at this interview, to have received the idea which is embodied here in the heading of the account. In the year 1856, a traffic agreement having been entered into between the Detroit and Milwaukee Railway Company and the Great Western Railway Company, an arrangement was made in regard to sums of money for traffic becoming due from the Great Western Railway Company to the Detroit and Milwaukee Railway Company. The traffic was to be continued throughout the two lines, and the charges were not to be collected until it came upon the Great Western Railway, which Company were to receive a certain proportion of the proceeds on account of obligations due them by the Detroit and Milwaukee Railway Company. The bonds of the Detroit and Milwaukee Railway Company were at that time in England, and it was agreed that a certain proportion of the traffic receipts should remain in the hands of the Great Western Railway Company, to be applied to the payment of interest on the bonds in the hands of that Company. To facilitate the arrangement, it was necessary that some account should be opened in England, and for that special purpose an account was opened with the Joint Stock Bank in London. The

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Bank thought of having this account headed in the ledger, "Trust fund," but it was suggested that instead of the account being kept in that way, it should be opened in the name of the Great Western Railway itself, so as to show what the account was for. It was therefore opened as "The Great Western Railway of Canada, 'Detroit and Milwaukee Account,'" but it had reference to these bonds alone, and to the interest upon them. Facing this entry, the gentlemen of the Commercial Bank exclaim, "We have got them now—why, there is even an account kept in London in the same way." Here are the entries on the minutes of the English Board in reference to these transactions—

"MEETING OF THE ENGLISH BOARD.

"12/A August, 1854.

907.

"PRESENT—Robert Gill, Esq.

"DETROIT AND MILWAUKEE.

"It was reported that an Account had been opened with the London Joint Stock Bank, termed 'Trust Account of Detroit and Milwaukee Bonds,' to which sums for deposits and future instalments on these Bonds were to be paid. The Trustees who would hereafter sign cheques on this account were R. Gill, A. Beattie, and P. Buchanan, Esqrs., or any two of them, and countersigned by the Secretary."

"ENGLISH BOARD, August 27/A, 1855.

943.

"PRESENT—Robert Gill, Esq., in the Chair; Alexander Beattie, Esq.

"DETROIT AND MILWAUKEE BANKING ACCOUNT.

"It was reported that owing to some legal objection to the Account opened with the London Joint Stock Bank, as the 'Trust Account of Detroit and Milwaukee Bonds,' as stated in Minute, No. 907, the Banking Account had been opened in the name of 'The Great Western Railway of Canada, 'Detroit and Milwaukee Account,' and a letter was written to Mr. Pollard, by Messrs. Gill and Beattie, informing him of this, cheques upon which, until further notice, to be signed by themselves and countersigned by the Secretary."

As I have already said, the traffic receipts were to go in payment of the interest on the bonds. It may be that it was from these minutes the Commercial Bank got the idea of entering their account. But instead of writing in their books, "The Great Western Railway of Canada, 'Detroit and Milwaukee Account,'" they reversed the order, making the Detroit and Milwaukee Railway Company first, and the Great Western Railway Company last. And why did they do that? Because having written in their ledger in the first instance the words, "Detroit and Milwaukee Railway Company," they could not change it in any other way than by putting the reference to the Great Western Railway Company at the end of the line. But when the line was already filled by the words "Detroit and Milwaukee Railway Company," and they were unable to attach anything at the end they wrote over the top and reversed the order. And in those particulars their ledgers disagree as to the manner in which the account was kept. I want now to draw your attention to a piece of book-keeping which you have not yet seen, but which received the sanction of the cashier of the Bank at Kingston. In the index to the Ledgers you will observe that they forgot to say anything about the Great Western, and kept the reference to the account in the name of the Detroit and Milwaukee Railway Company all the time. Referring to the Bill of particulars, you will find the account charged as "Detroit and Milwaukee Railway Company account, Great Western Railway Company." You will notice the different ways in which the account is charged. But the point to which I more particularly desire to direct attention is this, that after professing to close the account, they continue on the same page to make charges on account of the Detroit and Milwaukee Railway Company. For so doing the flimsy excuse is offered by the Bank, that the account was continued in

that manner in order to save them the trouble of opening an account in a separate page ! From all these circumstances I think you will agree with me that these books are pretty satisfactory documents on behalf of the Great Western Railway Company. You heard what was said by my learned friend on the other side about the Commercial Bank being a Corporation. The Great Western Railway Company are also a Corporation, composed of a number of persons resident in England. Hundreds of them, amongst the proprietary shareholders, are widows, and there are also many trustees for orphans, who are shareholders. There are, indeed, many and diverse interests at stake on the part of the Great Western Railway Company. And so it might be said in reference to the Commercial Bank of Canada; amongst their shareholders there are widows and the trustees of orphans, so that they stand on a par in this respect. My learned friend will say to you that the evidence must lead you to the belief that the Great Western Railway Company received this money and used it for their own purposes. But I ask you if they did use it for their own purposes? I ask you if they used it at all? The evidence of Mr. Brydges and Mr. Reynolds is, that they never received it. The evidence of every one who has been called forward is to the effect that the monies received from the Commercial Bank have been all expended on the Detroit and Milwaukee Railway. Common sense must tell you that the Detroit and Milwaukee Railway Company are not the Great Western Railway Company; and the act of Parliament shows that the powers of the latter corporation are circumscribed to Canada, and do not extend to the United States. The reception there of monies must have been a reception of such monies by the Detroit and Milwaukee Railway Company, a corporation which has an individual existence just now as distinct and real as ever it had. It is no part of the Great Western Railway, and the Great Western Railway Company never received the benefit of the money expended upon it, any more than one individual would receive the benefit of monies paid to another individual with whom he is in no wise connected. Or I would put the case in this way: Supposing one of you, gentlemen of the jury, had the misfortune to borrow money on the security of a mortgage on your farm. Perhaps you build a house on it after it has been mortgaged, or it may be that you mortgage the farm with the view of building the house. You enter into a bargain with a builder to erect the house, and he puts it up. Do you think the man who lent the money and took the mortgage would be liable to the person who built the house? Surely not. He did not enter into any contract with the builder to build the house. And so it is with the Great Western, the Detroit and Milwaukee, and the Commercial Bank. The Great Western Railway Company lent money to the Detroit and Milwaukee Company, to the amount of a million and a half of dollars, and they took a mortgage on the road to secure the claim. And because they lent this money and took the mortgage, the Commercial Bank, forsooth, who, had also lent money to the Detroit and Milwaukee Railway Company, endeavours to make the Great Western Railway Company liable for their claim against the Detroit and Milwaukee Railway Company as well ! Could anything be more unreasonable? It seems an absurdity when put in this position. Yet it is a fact, for it comes to nothing more nor less than what I have stated. Let us now consider for a moment the relative value to the country of these two undertakings. The Great Western Railway Company employ two thousand people. They have their artisans and their workmen of every description, besides clerks and gentlemen high in trust; and at least five thousand persons are dependent upon them for a livelihood from day to day. The railway has done much for the benefit of the country. It has caused a large return to be made on our timber, which before the introduction of railways lay idle and useless, or had to be burnt to facilitate the clearing of the forests, and it has made thousands of acres of land profitable to the owners, which otherwise would have been mere wastes. It has been and continues to be of much advantage to the Province. And what is the return the Great Western Railway yields to those who spent their money in its construction? Why, they have received some three per cent. per annum, and the last half-year the railway was not able to pay any dividend whatever. Look, on the other hand, at the Commercial Bank. What have they done, let me ask, to benefit the country? They build a fine house here and there, and those connected with it live in ease and affluence, whilst the proprietors make out of their investments 10; aye, 13 and 14 per cent. per annum, notwithstanding the law says that no bank shall make more than 7 per cent. of their dealings. Why, we have it in evidence on this trial, that notwithstanding this vast sum of money having been advanced by them out of their treasury, they are paying to their shareholders at this very moment a dividend of 8 per cent. upon their capital. The shareholders of the Commercial Bank are getting £8 a-year on every £100 they have invested, whilst the proprietors of the

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Great Western Railway are not getting a solitary sixpence upon their aggregate advances. I say, then, if you have any doubt in the case, you should give the benefit of it to the Great Western Company, that not they, but the Commercial Bank, which can well afford it, may be the losers to the large extent. But do not think that I ask you to render a verdict against reason and justice. We come here asking that no favour but that full justice may be done us; and we feel satisfied that we shall receive it at your hands. You have heard the declaration of every officer connected with the Commercial Bank that they never heard of the existence of the claim against the Great Western Railway Company until October, 1850—you have heard Messrs. Brydges and Reynolds detail the manner in which the account was opened—and when you find, as you have found, the books and papers bearing out these declarations, I am sure you will say that the Commercial Bank are not entitled to recover in this suit, and that the Great Western Railway Company are entitled to pass out of Court without a suspicion upon their honour and integrity for fair and upright dealing. Every paper they have produced is a proof in their favour. They exhibit no ledgers altered—they bring forward no books changed and blurred. Everything comes before you as the entries were first made, and all these entries are in accordance with the living testimony of the gentlemen I have called before you as witnesses. Then you will be asked the question, to whom was the credit given? Was it not given in the first instance to Messrs. Brydges and Reynolds, individually, as in the case of the Steamboat Account, and afterwards, when the Commercial Bank opened the agency at Windsor, to the Detroit and Milwaukee Railway Company, who used all the formalities required by law for a distinct and independent corporation? Can you doubt it? It does not seem to me that there is any possibility of saying that the Great Western Railway Company were the primary debtors. To my mind it is evident that the Commercial Bank gave the credit to Messrs. Brydges and Reynolds, until the Detroit and Milwaukee Railway Company had a corporate existence, which was the case on the 22nd of January, 1858. Gentlemen of the Jury, you have borne patiently with me. You have investigated the case with care and attention. And from observations made by some of you, it is evident that you have made yourselves fully acquainted with the facts. I feel satisfied, and the Great Western Railway Company, whom I represent, feel satisfied, that although we have been brought directly within the sphere—under the very nose as it were—of the Commercial Bank against our will—for though we endeavoured to have the trial brought on elsewhere, we could not obtain that boon—that on the facts adduced you will not fail to find a verdict in our favour. You will recollect that the parties in England never authorized Messrs. Brydges and Reynolds to involve them in a debt of this kind, and if they really have done so, they did it without authority. In the whole course of my life I have never seen a more curious trial, or a stranger exhibition than has been witnessed on the part of the Commercial Bank. I trust, Gentlemen of the Jury, that you will say the same. I hope that the Great Western Railway Company will receive justice at your hands—that you will deal fairly by them—but we shall have to be satisfied with your decision, whatever that may be.

Hon. J. H. CAMERON then addressed the Court. He said,—May it please your Lordship; Gentlemen of the Jury,—Very fortunately for you, and perhaps for myself too, the remaining hours of daylight are not sufficiently long to enable me to address you for anything like the length of time occupied by my learned friend. I am satisfied that whatever my learned friend may have thought it desirable to say at the commencement of his address, as to the necessity of his being looked upon with a certain amount of leniency, on account of his comparative want of experience, and of his being almost alone in conducting a case of such importance, that you and all those who have listened to his able defence will agree with me that his clients have not lost anything by his earnest, pains-taking and talented advocacy. There is nothing, I am sure, which could be done for the Great Western Railway Company, that he has not done. There is no point, I think, that he has left untouched in any way whatever. And although my learned friend Mr. Irving, who is associated with him, has only acted on this occasion as the stoker feeding the locomotive, after all, the stoker is entitled to a large amount of credit too. There are, gentlemen of the jury, certain points in reference to this case that we propose to submit to you as the grounds on which we claim your verdict. I shall not, as I have already stated, take up anything like the time occupied by the address of my learned friend; because he has read a large portion of the documentary evidence which otherwise I might have felt it my duty to have read, and he has brought forward statements

which otherwise would have devolved upon me to have brought forward; and the large number of facts surrounding this case he has laid before you in such a way as will simply render it necessary for me to refer to them, without again reading them in the manner and order that he has read them. I must say, however, that a vast mass of what my learned friend has read has nothing to do with the case. In fact the large number of words he used put me in mind of two circumstances: the first is, the manner in which, as we know of late, from the Chinese mode of warfare, the Celestials receive the "barbarians," with a loud beating of tom-toms, to frighten them out of the field with their noises (laughter); and the other is, that in advancing to meet the enemy, the people of India used to march out a troop of elephants, that, under cover of the dust which they threw up, they might be able to launch out a lance or two at the heads of their opponents (laughter). I am sure that you, gentlemen of the jury, are not to be alarmed at the noises, and that the lances were blunt, however well they may have been aimed. Now, I propose to divide this case into four different heads, which his Lordship will presently submit to you as the grounds on which you are to pronounce a verdict either in favor of the plaintiffs or defendants. I will read those heads to you presently, and afterwards leave them to you, subject to such modifications as his Lordship may think proper to indicate. I believe, with my learned friend, that from the great attention paid by you, you will be able, when you retire, to answer these questions—one, two, three and four—in a manner such as will enable the Court, when it has to apply the law to the case, to give a just judgment as between the parties. My learned friend says he desires no more than that justice shall be done. "*Fiat justitia ruat cælum.*" He is willing to have the Great Western Railway destroyed, root and branch, by your verdict, rather than that justice should not be done. We also desire that justice should be done; but we do not believe that in whatever way your verdict is given, it will be so destructive in its effects as my learned friend seems to suppose. Most certainly, however, the interests involved are large interests, and it is desirable that the verdict which you may give should be founded on that careful consideration of the evidence which, we take it, you have brought to bear upon it during the past two days. The propositions I intend to submit to you are these: First, Whether the credit was originally given to the Great Western Railway Company, to the Detroit and Milwaukee Railway Company, or to Messrs. Brydges and Reynolds personally, by the Bank? Secondly, Had Messrs. Brydges and Reynolds authority from the Great Western Railway Company to make financial arrangements for the Detroit and Milwaukee Railway Company, on account of the Great Western Railway Company, to the extent of £250,000 sterling, and was the account with the Commercial Bank opened and conducted by them in pursuance of such authority? Thirdly, Had the Commercial Bank notice at any time while the account was going on, that Messrs. Brydges and Reynolds had exceeded their authority, or that more than the two loans of £250,000 sterling had been expended? And, Fourthly, Did the Great Western Railway Company reap the benefit of the expenditure made by the Commercial Bank on the Detroit and Milwaukee account? Now, gentlemen, I trust that the answers you will be able to give to each and every one of these propositions, will be answers, the effect of which will be, that on the application of legal principles thereto, a verdict will rest in favor of my clients. I shall proceed now to show you, in taking up each one of these points, the grounds upon which I rely for a verdict being given in our favor. The first point to be determined is, whether the credit was originally given to the Great Western Railway Company, to the Detroit and Milwaukee Railway Company, or to Messrs. Brydges and Reynolds personally, by the Bank. In order to arrive at a proper conclusion in regard to that, we have to look at the transactions surrounding the opening of the account. I shall not touch here upon any of the questions as to the powers or authority of the Great Western, or as to the instructions given to Messrs. Brydges and Reynolds by the persons who were over them in England; but I shall take on this point the acts of Messrs. Brydges and Reynolds in this country, the events which occurred on the opening of the account, and the various transactions they were engaged in from time to time down to the 16th December, 1858, when the letter was given which is called a letter of guarantee, or letter of acknowledgment—I don't care which, although my learned friend has laid unusual stress upon the statement that it was a letter of guarantee simply: whatever they choose to call it will not alter the nature of the letter itself; and it will make no more difference in regard to it, than there would be a difference made in this account by its being called the Detroit and Milwaukee account, or the account of the king of Timbuctoo. (Laughter.) And in dealing with the first question we have to divide the evidence bearing upon it into two branches. The first is the *vide voce* testimony, the second the written testimony.

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We will answer the question on the facts furnished by both kinds of evidence; and I am sure that before I have done with it, I shall establish as fully to your satisfaction as I have to my own, that the credit was really and truly given to the Great Western Railway Company. We have heard observations made as to the manner in which Messrs. Brydges and Reynolds gave their testimony in the witness-box, and we have also heard observations made as to the manner in which Messrs. Ross and Park gave their testimony in the witness-box; and as a matter of course, my learned friend thought that his witnesses gave their evidence a great deal better than our witnesses. But some how or other, we have an affection for our witnesses, and we feel that they are as good as my learned friend's. We do not say that they are at all better. No; we would not for a moment presume to say that the Commercial Bank officers are better than the Great Western and Detroit and Milwaukee Railway officers—that they stand better than my granite friend Mr. Brydges, who stood before us yesterday with a face like

a man

"Monumental bronze, unchanged in look,"—

"Whom pity (!) touched, but never shook."

(Laughter.) I was delighted to see the cool, calm manner in which Mr. Brydges gave his testimony. But I confess that I cannot say quite so much for the stoicism and indifference of Mr. Reynolds. Mr. Reynolds is a good witness, undoubtedly, and an able man—a man who, as one of our witnesses states, is "equal to himself," or of whom, according to the old adage, which one cannot forget, it may be said, "None but himself can be his parallel." (Laughter.) He is therefore entitled to equal respect, if he did not exhibit the same amount of stoicism as Mr. Brydges. But, as I have said before, we have at the same time an affection for our own witnesses. We do think, after all, that Mr. Ross, who in personal stature is a larger man than Mr. Reynolds, and Mr. Park, who is a smaller man than Mr. Reynolds, thrown into the scales—we do think that the evidence of these two gentlemen is better than Mr. Reynolds' unsupported testimony. And we say this, that according to all general principles, when three witnesses are called to give testimony regarding the same fact, and two of them tell the story one way, and the other in another way, the balance of probability is in favor of the evidence of the two; and when we afterwards show by other testimony, which forms part of these important transactions, that the evidence of the two is borne out by the *res gesta*, you will not hesitate for a moment in saying that the testimony of Messrs. Ross and Park is worthy of far greater credit than that of Mr. Reynolds. I have already stated that I intend to divide the evidence into two branches, the first of which is the *viva voce* testimony. You will remember that in whatever took place in regard to the opening of this account, Mr. Brydges had nothing to do in any form or shape. He was not present at the time the determination was come to as to the opening of the account. The interview which led to the account being opened was held in Toronto, Mr. Ross and Mr. Park being there on the one side, and Mr. Reynolds on the other. Mr. Reynolds asked them to open an account in the name of the Detroit and Milwaukee Railway Company, as the account of that Company; but Mr. Ross, either from what had already transpired in the course of their dealings with the Great Western, or from facts which came to his knowledge from other sources, says in his evidence that he knew the Detroit and Milwaukee to be embarrassed, and he was determined not to deal with that Company, as a Company, in the way of opening a credit in their favor. He therefore declined to entertain the proposal to open a credit account with the Detroit and Milwaukee; and he suggested—as he and Mr. Park both swear, and Mr. Reynolds does not recollect—that the account should be opened as a Great Western account No. 2.

MR. M. C. CAMERON—You are labouring under a mistake. Mr. Reynolds emphatically and positively stated that if any such proposal were made, it was not made to him.

HON. J. H. CAMERON—I was putting the matter in the most charitable light for Mr. Reynolds. For I would rather a great deal say that his memory failed him, than be compelled to state that he told an untruth. The character of the gentlemen who have given opposite evidence is such that I do not believe that not only in this neighbourhood, but in this part of the country, any one could be found with sufficient hardihood to urge a doubt against any statement they might make. And I will confess that if I am driven to determine between the statements, not of Messrs. Ross and Park, and Mr. Reynolds, but between the statements of Mr.

Ross himself as against the evidence of Mr. Reynolds, I would take Mr. Ross's evidence five times over before Mr. Reynolds's, from my knowledge of the one gentleman being so much superior to my knowledge of the other; and when, in addition, we have the testimony of Mr. Park corroborating the testimony of Mr. Ross, and the documentary evidence strengthening the testimony of them both, I must decidedly place the palm for truth on the side of the two witnesses examined on our behalf; and if I am compelled to declare it, I must assert that part of the testimony of Mr. Reynolds is false. I am obliged to take the one course or the other. I would rather say that Mr. Reynolds's was an infirmity of memory than that he told an untruth. But I was obliged to take one horn or other of the dilemma, and I took that which I conceived to be the most favorable to him. But I am now forced to say that we have the positive assurance of Mr. Reynolds that nothing was said about the Great Western Account, No. 2, and the equally positive assurance of Mr. Ross and Mr. Park to the contrary. And why do I think it must have been as Messrs. Ross and Park have represented it to have been? Because of the perfect fitness of the reply attributed to Mr. Reynolds, that if the account was opened as Great Western, No. 2, every single transaction must pass through the cash account, and go before the Finance Committee of the Great Western, and that they must also go to England. It was for this reason, as Mr. Ross and Mr. Park tell us, that Mr. Reynolds objected to the opening of the account in the way in which Mr. Ross had suggested. The suggestion was then made that the account should be called the Great Western Railway—Detroit and Milwaukee Account; and Mr. Ross and Mr. Park both swear that this was the conclusion arrived at, and that when the interview terminated it was with the agreement that the account should be opened in that way. The interview took place, at which that arrangement was made, on the 29th December, and on the very next day, December 30th, the sum of £2,500 was paid out by the Commercial Bank, on the cheques of these gentlemen—the account being entered, G. W. R. Co.—Detroit and Milwaukee Account.

Mr. M. C. CAMERON—It was entered just the other way.

Hon. J. H. CAMERON—Then it was—Detroit and Milwaukee Account—Great Western Railway Company. It is not at all material, that I can see, which way the words were put. Gentlemen, it is said that however treacherous may be the memory of individuals, "circumstances cannot lie," however much men may do; and when we point to the book which contains the entry, I have read—an entry one letter of which all my learned friend's ingenuity cannot change—when we refer to that as the consequence of the interview, we say we have proof as positive as proof can be, that the account given *viva voce* by Messrs. Ross and Park, as to the transactions of the 29th of December, was the true account. Gentlemen, we go a little further. We find that, from that period of time—the end of December, 1857—down to the 16th of December, 1858—a period of very nearly a year—according to the concurrent testimony of Messrs. Brydges and Reynolds, no interview had taken place, in regard to changing the character of this account, between Mr. Ross and Mr. Campbell, and them; and that though they had frequently spoken to Mr. Park about the transactions of the two companies, nothing also had passed between him and them to alter the nature of the account. Therefore we know that no verbal communication took place in any form or shape, so as to alter the account, from that period of time down to the period I now come to, in dwelling upon the second portion of the *viva voce* testimony bearing upon this point, namely, 16th December, 1858. At that time, for reasons which Mr. Park has explained, there seems to have been some suspicion—how created I do not exactly know, and have not pretended to enquire—that arose out of enquiries made by certain parties from Buffalo as to steamboat transactions in which Messrs. Brydges and Reynolds were engaged in that city. In consequence of that suspicion, an interview, was held on the 16th December, 1858, which resulted in the letter being given by Messrs. Brydges and Reynolds, which is called "the letter of guarantee." This, however, was preceded by the letter of the 15th December, to which I shall allude presently, when on the second branch of the evidence. Well, at the interview which took place between Mr. Park, Mr. Campbell, and Mr. Reynolds, a statement was made bearing upon the position of the account, and the necessity there was of there being a business-like exposition made, which could be put on record in regard to the state of the Detroit and Milwaukee account. We find, that in accordance with what passed at that interview, as detailed by Mr. Park, the letter of the 16th December, 1858, was given. This is really all we have to deal with on the score of the verbal testimony. Two interviews were held, and we have

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Mr. Park's clear and explicit statements as to what took place at them. We are asked why we did not call Mr. Campbell? We answer that we did not find it necessary to do so, for reasons which I shall state to you presently. We have, therefore, to deal with Mr. Park's testimony in reference to the inception of the account, and we have to oppose that evidence of a *caveat* character to the verbal testimony of Mr. Reynolds. We next come to the evidence of a documentary character. And the first documentary testimony we have, is the entry made in the books of the Bank under the arrangements to which I have alluded. We find them, too, carrying on the account in precisely the same way, from that period during the whole of the summer. We have the fact that on the 22nd January, 1858, the Detroit and Milwaukee Railway Company were re-organised—that it had a new Board, with Mr. Brydges as President, and Mr. Reynolds as Vice-President—and we have the further fact, that notwithstanding all this, the cheques continued to be drawn in the same way from that time forward. Thus, then, the great point on which my learned friend relies, in regard to the documentary evidence, falls to the ground; because if his argument is worth anything, on the Detroit and Milwaukee Railway Company being re-organised, they ought immediately to have commenced drawing their cheques as "C. J. Brydges, President; Thomas Reynolds, Vice-President; and with the names of the Secretary and Accountant attached, as they were afterwards drawn. So I think I have established that the first item of the documentary evidence is in our favour. I come now to the bills of exchange drawn on the Great Western Railway Company in England. You will find these to be of two different characters, and that you may see the distinction I will shew you one of each. You will observe that one is drawn directly in favour of the Commercial Bank. It is signed "C. J. Brydges, Managing Director, and Thomas Reynolds, Finance Director," and is ordered to be placed to the account of the Trustees of the D. & M. Company. It is addressed to the Directors of the Great Western Railway in England. The bills are all drawn in the same way with the single exception of one or two of them being drawn on account of the D. & M. loan, instead of on account of the Trustees of the D. & M. Company. They say that these bills belonged to what they call the Great Western account proper. Now, I should like to know if you find any difference in them except as to the mode of entering the bills in the Great Western Company's books at home. Here is a bill signed in the same manner, the only difference between the two being that one is to be placed to the account of the D. & M. Company, and the other to the account of the Canada Office. You will thus see that the second portion of the documentary evidence I have given is evidence of the manner in which the credits were made. The very first item we have on the credit side of the account is the sum of £20,000 sterling, which produces \$20,066 66c., and that is credited to the Detroit and Milwaukee Co.—Great Western Account. Every one of the other bills is drawn in the same way, with the names of Messrs. Brydges and Reynolds attached—the one as Managing, the other as Finance Director; and they are drawn upon the London Board of Directors, Gresham House, Old Broad Street, London. Thus, documentary evidence, number two, shews that the drafts were drawn by Messrs. Brydges and Reynolds, as Managing and Finance Directors, on the head office in London. And under what circumstances? You heard me desire them to examine the minutes, and ascertain the exact position in which these transactions stood. I asked, you may remember, if a minute of the drawing of these bills would appear in the proceedings of the Finance Committee. But no entry of the kind appeared among the records of the Finance Committee, and there is no account of their appearing before the Board of Directors either, in any other way than this—that after the Bills had been duly accepted and paid in England, they came back entered in the minutes of the English Board of Directors. I advert to this as part of the documentary evidence, for the reason that they say the Great Western people were so particular that when they opened their account with the Commercial Bank, they indicated precisely how their cheques were to be signed, and that they never made a change in the signatures, even for two or three days, without notifying the Bank. Well, I shew here, that at the same time they pretend to be so very precise; moneys to the extent of \$450,000 were drawn for by these same gentlemen on England, without their appearing on the Finance Committee's minutes, or any where else, until they went to England, and came back accepted and paid. This is a statement which comes under documentary evidence, number two. I come now to the statement in regard to documentary evidence, number three. On the 30th March, 1858, these gentlemen desired to obtain a credit, and they accordingly wrote to Mr. Ross the letter which my learned friend has read to you, and which I will read to you again, because he did not read the two subsequent letters, or the resolutions, both of which bear upon this point. I read, then,

the letter a second time that you may see what the application really was, the manner in which it was answered by the Commercial Bank, and the way in which their answer was replied to. This is the letter of Messrs. Brydges and Reynolds of the 30th of March:—

"GREAT WESTERN RAILWAY
"HAMILTON, CANADA WEST."

"O. S. Ross, Esq.

"Secretary, Commercial Bank of Montreal."

"DEAR SIR,

"In proceeding with our various engagements, we find that it would be a great advantage to us, if we had at times at our disposal (beyond our ordinary resources) of making settlements with parties whose claims are put down for payment at a distant date. To enable us to make such settlements, and to economise the funds at our disposal (which would be one effect of our being in a position to do so), we have requested that you will lay before your Board our request to be favoured with a credit to the extent of say \$100,000, if necessary, on our joint Detroit and Milwaukee account here.

The balance against the Great Western Company is now so much reduced (and will continue steadily to decrease), that we imagine you will have no objection to the arrangement here proposed; and we may mention to you as some inducement to you, that the notes to be drawn, under such a credit, would be sent down to deposit in the State of Michigan, where the not inconsiderable amount of your paper already sent by us for payment of the indebtedness of the Detroit and Milwaukee Company continues to circulate.

"We desire to adhere as nearly as we can in drawing on our English colleagues to the amounts set down in the schedule we prepared for the gradual completion of the works on the D. and M. Line. And this proposed credit would enable us to do so without the necessity of postponing claims which could, if promptly settled, be so much more satisfactorily arranged.

"Do us the favor to inform us of the decision of your Board at your earliest convenience.

"We are, Dear Sir, yours faithfully,

(Signed)

"C. J. BRYDGES,

"THOMAS REYNOLDS."

In this letter, written on behalf of the Detroit and Milwaukee Company, you will observe that these gentlemen speak of drawing on their English colleagues. Now, what English colleagues had they at the time as officers of the Detroit and Milwaukee Railway Company? They had Mr. Gill, it is true, but they never drew upon him in that capacity. It is evident that they meant the Great Western Railway Directors as their English colleagues. We must now see what were the minutes of the Board, with the view of ascertaining the manner in which this, the next portion of the documentary evidence was treated by the Commercial Bank. "An application," it is said, was made, not from the Detroit and Milwaukee Railway Company, but from the Great Western Railway Company—and you will remember this was on the 1st April, 1858, when a quarrel had arisen between Mr. Ross and Messrs. Reynolds and Brydges at that time—then there was no allusion as to the account, and no treating of the account as an account of Messrs. Brydges and Reynolds, or as an account of the Detroit and Milwaukee, or as an account of anybody else, except the Great Western Railway Company, as is proved by the manner in which the Commercial Bank treated the application for a credit at that time on the part of these gentlemen. The minutes say:—

"Application from Great Western Railway Coy for a credit of \$100,000 upon their Detroit and Milwaukee Account, was submitted and considered. The Board considered that it would be well to make a credit of \$50,000 up to 1 July, and thereafter, if really required, a credit of \$100,000, the whole advances to be repaid on or before 1 December next, the understanding being that the aggregate amount of the two accounts of the G. W. Railway Co. will not exceed £50,000 or £60,000 or."

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That, gentlemen, is our minute of the 1st April, 1858. That is the *littera scripta*. Here we find on the 1st April, 1858, when there were no breezes blowing from the Great Western Railway to the Bank, except such spicy breezes as are wafted from Araby the blest—in those days when everything was peace and harmony—that the application was made and received as a Great Western application; and it is only in these days, when something or other has changed the current of their true love, which, they say, in other things as well as in regard to the tender passion, never does run smooth—it is only now, I say, that we find them endeavouring to create difficulties, and looking all of a sudden through yellow glasses at the liberal-minded, high-spirited, institution which the Commercial Bank previously appeared to them to be. Gentlemen, that is the third portion of the documentary testimony. At a time when there was no difficulty or danger, when everything was sailing onward as smoothly as on the summer sea, when none of those wintry blasts were howling beneath the horizon, we have this account put in a shape in which my learned friend cannot say there is no liability on their part to answer for it. Let us now see how the application was answered. The letter I am about to read, was not read by my learned friend. He only read the letter which was ancillary to this:—

“COMMERCIAL BANK OF CANADA,
“KINGSTON, 1st April, 1858.

“GENTLEMEN,

“I have received and submitted to the Board, to-day, your letter of the 30th ult.

“The Directors have taken the subject matter of that letter into consideration, with the disposition to meet your wishes as far as can be done consistently with the demands upon us from other customers, and the requirements of the Bank as to periods for covering London account, &c.; and also, under the impression, that any amount on the D. and M. account, not covered by bill at the end of each month, will be (practically) neutralised by a corresponding reduction of general account, under the limit of £50,000. We also understand that, so far as possible, the money advanced will be circulated in Michigan, as hitherto.

“Upon the above basis and understanding, the Board authorize a limit of \$50,000 uncovered at end of month on the D. and M. account up to 1st July; and thereafter, if required, an amount not exceeding \$100,000; all such advances to be repaid on or before 1st December next; in other words, that on 1st December next, the D. and M. account shall be covered in full by exchange or cash.

“We assume that the aggregate amount of the D. and M. account, uncovered at each month's end, and of the general account, will not exceed \$200,000; but in case of emergency, we shall not mind an excess of \$25,000 @ \$40,000 for a short time.

“I suppose this will meet the requirements of the Company.

“I am, Gentlemen,

“Yours faithfully,

(Signed) “C. ROSS,
“Cashier.

“C. J. BRYDGES, Esq.,

“THOS. REYNOLDS, Esq.,

“Directors Great Western Railway Co.,
“Hamilton.”

Now, nothing can be clearer than this, that the Bank looked upon this as the Great Western account. And what is the reason that when they received this letter, instead of answering it as they did answer it, they did not repudiate—that which I did not say, “We have no D. & M. account. We will have no part in such a matter. We have not been in any form or shape, except merely as Trustees of the Great Western Shareholders, and now, as President of the Detroit and Milwaukee Road.” We will see whether they said so or not. They write:—“Upon the above basis and understanding,”—namely, that any

practical drawing of \$50,000 or \$200,000 on the account of the Detroit and Milwaukee would be neutralized by a corresponding reduction of the Great Western account proper,—“ Upon the above basis and understanding, the Board authorize a limit of \$50,000 uncovered at end of month on the D. and M. account up to 1st July; and thereafter, if required, an amount not exceeding \$100,000: all such advances to be repaid on or before 1st December next; in other words, that on 1st December next, the D. and M. account shall be covered in full by exchange or cash. We assume that the aggregate amount of the D. and M. account, uncovered at each month's end, and of the general account, will not exceed \$200,000; but in case of emergency, we shall not mind an excess of \$25,000 @ \$40,000 for a short time. I suppose this will meet the requirements of the Company.” They had here, you will see, a credit of \$200,000 or £50,000; and they were told expressly that their application would be acceded to upon the basis and understanding that the aggregate of the two accounts—of the D. and M. account and of the general account—did not exceed \$200,000. And what, I ask again, was their answer? Do we find Messrs. Brydges and Reynolds repudiating in the most determined manner this language? Do we find them saying,—“ Sir, the Great Western Railway Company has nothing to do with the Detroit and Milwaukee Railway Company. We do not desire that there should be an aggregate credit, or that our \$200,000 should be mixed up with their \$50,000?” No, they do not say that. But this is what they really do say:—

“ GREAT WESTERN RAILWAY,
“ HAMILTON, CANADA WEST, 14th April, 1868.

“ U. S. ROSS, Esq.,

“ Cashier, Commercial Bank of Canada, Kingston,

“ DEAR SIR,

“ Just on the eve of our departure for Detroit and the West, whence we returned only last night, we had the pleasure of receiving your favour of the 1st instant, in answer to ours of the 30th ultimo, consenting to a credit to our Detroit and Milwaukee account here to the extent of \$50,000 up to 1st July, and \$100,000 thereafter, if required, and upon the conditions set forth in your said letter.

“ The conditions are entirely satisfactory to us, with the exception of the one requiring the D. and M. account to be covered in full on or before 1st December next.

“ We are anxious to make our arrangements to cover the account on the 31st MARCH, next year; but if the arrangements of the Bank render it necessary that we do so earlier, we will take care to do so.

“ We have every expectation that within six months from this date the Great Western account will be in a condition not to require the open credit which it at present enjoys; and if this expectation should be realized we presume there would be no objection on the part of the Bank to carry the D. and M. credit on to the 31st March next.

“ We are, dear Sir, faithfully yours,

(Signed)

“ C. J. BRYDGES,

“ THOS. REYNOLDS.”

Now, what were the conditions which these gentlemen say were so entirely satisfactory? Why, that the general account and the other account were never to exceed \$200,000, except as a special matter of arrangement. And, instead of hurling back in the face of the Commercial Bank, as they do now, the statement that they were looked upon as having opened the account for the Great Western Railway, and, instead of declaring that they would have nothing to do with the accounts being placed on the same basis, they represent every thing as being satisfactory to them. You will observe that this is the third portion of what we call the documentary evidence on the first head. Messrs. Brydges and Reynolds, the Great Western Railway Directors, apply for a credit on the Detroit and Milwaukee account at the Bank. A minute is passed treating it as a Great Western Railway application. Mr. Ross writes to them, dealing with it in the same way. And they

write back, and say that the conditions on which they were to receive this credit, were perfectly satisfactory—the only change which they desired to make being that the account should be covered on the 31st of March, instead of on the 1st December. We now come to the next piece of documentary evidence furnished by the letter of the 16th December, 1858. That is the letter we heard so much about as being a letter of guarantee. We have with regard to that letter of guarantee a little of what we may call *rien voce* testimony. There is a good rule of law, which probably was never better practically exemplified than it has been in this case, that whenever parties reduce any thing to writing, unless fraud is alleged and proved, they are not to depart from that understanding. When an understanding is made the subject of a written contract, the law does not allow the loose recollection of witnesses to come in and alter it. The reason is a good one. The *littera scripta* remains. It may, it is true, have been susceptible of all those fraudulent alterations which my learned friend has spoken of in regard to our books; but if we had made any of these alterations, we should have been compelled to have imitated Mr. Reynolds's handwriting; and I hope we have not been guilty of the crime of forgery as well as fraud. This letter, then, as it left the office of Mr. Reynolds, is clear and explicit. We have heard the saying attributed to Dan. O'Connell, that there was never an Act of Parliament passed yet which a coach and six could not pass through; and if that be so, it is evident that the clauses of Acts of Parliament must be wider apart than gridiron bars; but I think, in regard to this letter, it is so well worded that nothing in the shape of a coach and six could hope to pass it without going a long way round. Generally speaking, Mr. Brydges is the sun, and Mr. Reynolds the moon—the moon which shines with a borrowed light. In this case, Mr. Brydges is the moon, and Mr. Reynolds the sun. And the sun writes in this luminous manner:

"GREAT WESTERN RAILWAY,
"HAMILTON, CANADA WEST,
"10th December, 1858.

"W. H. PARK, ESQ.,
"Commercial Bank,

"DEAR SIR,

"With reference to the conversation which took place yesterday between you and Mr. Campbell and Mr. Reynolds, upon the subject of the Detroit and Milwaukee Railway Company's account with the Commercial Bank, we beg leave to state, that the Great Western Company holds itself liable to the Commercial Bank for all overdraft on the D. & M. Company's account with the said Bank.

"This is quite understood by us; but as you expressed a wish to have it placed on record, we now do so by means of this letter.

"Our D. and M. plans were so fully discussed between you and Mr. Reynolds yesterday, that we do not deem it necessary to advert to them now.

"We are, dear Sir,

"Yours, very truly,

"C. J. BRYDGES,
"Managing Director, G. W. R. Co.

"THOS. REYNOLDS,
"Finance Director, G. W. R. Co."

This, gentlemen, is what my learned friend, a little time ago, called a plain document for plain people. Now, what is the real meaning of this letter? Is the meaning that obviously attached to it by Mr. Reynolds when he wrote it, that the Great Western held itself liable for the overdraft? "Oh, no!" say they, "it does not mean that at all. But what we do mean is, that we hold ourselves liable for the amount remaining to be advanced by the Great Western Railway Company in England. And all we intend to be responsible for." It is true,

that we do not state in our letter that such is the extent of our liability, but such is the case." They were then owing the Commercial Bank the nice little sum of \$358,000. They had £100,000 sterling to receive from England, and to that extent, and to that extent only, as they may now they intended to be responsible. But they have not paid that money over; and still my learned friend says they are not responsible. Oh, no! They are a corporation, and they have a seal that is kept in a box, and can not be got at without the application of two keys, and the paper is not good for any thing without the seal—that it is, as it is, a mere piece of waste paper. For my part, I do not think that when Messrs. Brydges and Reynolds attached their names to it, they did intend it to be a mere piece of waste paper. Did they, at that time, mean to keep "the word of promise to the ear and break it to the hope?" Did they mean to say that the coupons had eaten up all the loan, and that this piece of paper was of no value? Or rather, when they put their sign manual to the letter, like honest men as they are, did they not intend that we should get the money? Did they not mean this letter to be a guarantee or assurance, that out of the coffers of the Great Western the means were to be drawn for covering all overdraft due to the Commercial Bank? If they did not mean that we should be repaid, I should like to know what becomes of the charges of fraud and improper dealing which have been brought against us—whether they would not be all as mere dust in the balance—as a breath of wind—as the breeze wafted from the humming bird's wing? I would now refer to the letter of Mr. Park, on the 15th December, the day before the letter, that they call the letter of guarantee, was written. They have attempted to use it against us; but we use it as shewing it to be strongly in our favour, because it shows exactly what I have said all through, that in the written transactions of the Commercial Bank, or of any of their officers, in relation to this matter, they have never varied at all from the manner in which they entered the account in their books on the 10th of December, however much they may have subsequently quarreled with the Great Western. And Mr. Park, in writing this letter, treated the matter on the real footing on which it stands, shewing that he desired that there should be definite memorandum, instead of having it left to the loose recollection of individuals, as was previously the case. I will now read to you Mr. Park's letter:—

WEDNESDAY EVENING, 15th Dec., 1858.

C. S. Ross, Esq.,

"MY DEAR SIR,

"We have just closed a very agreeable interview with Mr. Reynolds. Mr. Campbell will see you all when he returns. Meantime, I may say, that we made up our minds to ask you for a formal letter, to put the D. and M. overdraft in business shape, as one with the G. W. R. and it will be given in course. I will forward it to you, retaining copy. We also have a virtual assumption of the Government difference; at least, Mr. R. says 'we are in communication with them,' and you (the Bank) 'keep apart.' Ours that they saved the money, as per my letter of 2nd January last.

"Faithfully yours,

"W. H. PARK."

Was not the object of that interview to place the D. and M. overdraft, as we have placed it, in a business shape, as one for which the Great Western Railway were held liable? This note was written by Mr. Park after Mr. Reynolds had gone to write what they call the letter of guarantee. Now, what is Mr. Reynolds's explanation as to that letter? He says it was given because it was asked for, in connection with a quantity of exchange which they had promised to the Commercial Bank, but which they had been unable to give; and they gave the letter to satisfy the Commercial Bank as to the overdraft. He said that this was a letter of guarantee for the overdraft, instead of the exchange. We have put in a few letters which do not seem to me to come to the same conclusion that Mr. Reynolds has arrived at in this matter. We will shew you by these letters that the time when they were unable to give exchange was really a month later. Mr. Reynolds's memory, however, does not serve him very well, not only as to this, but in regard to another important point to which I will presently come. I will now read the letter of the 26th January, 1859:—

" GREAT WESTERN RAILWAY,
" HAMILTON, CANADA WEST, 26th Jan'y, 1859.

" C. B. ROSS, Esq.,

" Cashier, Commercial Bank of Canada,
" Kingston,

" DEAR SIR,

" When we had the pleasure of seeing you last week in Detroit, it was arranged that we should supply you with Exchange on England for the first mail in February.

" Our letters from London, received on Monday last, contain rather urgent requests that we delay drawing for a few months, until a temporary pressure, under which the Board there is at present suffering, shall have been relieved by the issue of the Company's Bonds, which, however, is progressing very slowly, owing to the stagnation of business on this side, and the consequent decrease in our traffic receipts.

" Of course, if you require the promised exchange we must supply it; but as money is generally rather abundant, it has occurred to us that it might be satisfactory to your Board to take, instead of Exchange on England, a short bond, under the seal of Great Western Co., payable here, say on 1st June next, for Ten or Twenty Thousand Pounds, (the same as the one to be issued to Capt. Ward,) in relief of the Detroit and Milwaukee account; the understanding being, that if our Great Western balance shall, at the maturity of the bond, be insufficient to retire it, exchange on England shall then be had recourse to for the purpose.

" Will you do us the favor to give this proposal your consideration, and inform us at your early convenience of the decision of your Board with reference to it.

" We are, Dear Sir,

" Yours faithfully,

(Signed) " J. BRYDGES,
" THOS. REYNOLDS."

You will here see that they do not say they that they had given a letter of guarantee for all overdraft. Not at all. They say that they offered them exchange; but now instead of giving them exchange they would give them a bond, which they wanted them to take on the Detroit and Milwaukee account. It will also be observed that they mix up together their Great Western balance with this bond, and with the Detroit and Milwaukee account. They do not offer this bond as a collateral security, such as was boasted of by my learned friend.

" Mr. M. O. CAMERON—I said that the bonds were given as collateral to the notes of \$50,000 each.

Hon. J. H. CAMERON—But this is a very different bond from those, and if you refer to the letter you will see the purpose it was intended to serve. Here is Mr. Ross's reply:—

" COMMERCIAL BANK OF CANADA,
" KINGSTON, 28th January, 1859.

" GENTLEMEN,

" Your favor of 26th inst. is before me, and has had our best consideration.

" I need not again assure you of our desire to meet your wishes on all occasions when it can be done without serious detriment to our general interests, and it is in that spirit we view your present application.

" So far as the Bank is concerned, the matter stands thus:—our London account shows balance of £42,000 sterling against us, and there are sundry dividends, &c., to come in; making it at least £50,000 sterling. The cashing of bond for Mr. Ward will add, say £20,000 sterling to this, as we must sell sterling to meet it. We

therefore do want these monthly £10,000 sterling from you, account D. and M. account, and there are really no produce bills whatever this winter to come in in summer, and give us sterling to cover account in June, it is not in our power to make any arrangement which would preclude our having all that is available for that purpose.

" By last Hamilton returns, I observe the D. and M. account shows a balance of \$406,000, and we have, probably, \$150,000 of D. and M. notes under discount. The balance of account is largely in excess of authorised credit, and of course bills maturing, held by us, or by others, have to be protected, and will add to the amount. On mature reflection, we cannot defer sterling payments beyond the following periods:— say, let us have bonds of G. W. R. Co., \$100,000 falling due 1st May, \$100,000 maturing 1st June, to be credited D. and M. account, and thus reduce balance, and to be paid by sterling bills, when due, at 3 or 4 months' sight. Then, on 15th June, we assume that G. W. R. general account will show balance at credit, which would be applied in reduction of D. and M. account to authorised limit of £50,000, or be remitted for dividend. Transfer by cheque could be made, or we could give our bill at 60 days for the equivalent of credit balance of general account, taking D. and M. sterling bill for enough to reduce D. and M. balance to £50,000, on the supposition we can afford to have that amount then unpaid, as to which, while I hope we can, I should not feel justified in committing the Bank at this moment.

" The reason why we must have part 1st May, is, that we have them to pay cheques for duties to Bank U. C., and must not shew such a heavy debt to London.

" I assume that if we do not call for the monthly bill of £10,000 sterling, on 1st February, March and April, the D. and M. cheque, beyond notes held by ourselves, will be small. We could not pay much and forego taking the bills until June.

" Please advise concurrence in this arrangement, that we may shape our matters accordingly.

" I am, Gentlemen,

" Yours, faithfully,

(Signed) " C. S. ROSS,
" Cashier.

" C. J. BRYDGES, Esq.,
" THOS. REYNOLDS, Esq.

" P.S.—I go to N. York on Monday, and hope to return on Friday next. " C. S. R."

And on the 31st of January this letter is further answered. One would have supposed, judging from their indignation and disgust now at the attempt to make the Great Western responsible for the Detroit and Milwaukee account, that when their attention was so pointedly called to the Great Western—Detroit and Milwaukee account, there would be some sort of a repudiation of it. But what is their letter?

" GREAT WESTERN RAILWAY,
" HAMILTON, CANADA WEST,
" 31st January, 1859.

" C. S. ROSS, Esq.,
" Cashier, Commercial Bank of Canada,
" Kingston.

" DEAR SIR,

" We have to acknowledge the receipt of your favour of the 28th instant, in answer to ours of the 20th on the subject of the Detroit and Milwaukee account.

" The business, our wish

" The shall be about \$10 and one or other on The account Detroit, t

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"The desire of the Bank to extend to this Company every reasonable facility in reference to their banking business, has been amply manifested to us; and we beg to offer our best thanks for the liberal manner in which our wishes have been at all times considered and responded to by your Directors and yourself.

"The plan for covering the D. and M. account, suggested in your letter now under acknowledgment, shall be worked up to; but, as we presume it will be the same to the Bank if Capt. Ward's bonds for about \$100,000, for re-rolling iron, are made payable on the 1st May next, instead of the 20th January, 1860, and one of the \$100,000 bonds for the D. and M. account is made to mature 20th January, 1860, and the other on 1st June, 1859. We have to-day issued to Capt. Ward for \$50,000, due 1st May, 1859, on account. The accounts not being yet quite agreed, a bond for the balance will have to be issued on our return from Detroit, to which place we are now going.

"We shall also, on our return, hand Mr. Park the two bonds of \$100,000 each for D. and M. account—one due 1st June, 1859, the other, 20th January, 1860,—and it is understood, that if on the date of maturity of these, or the bonds to Capt. Ward, the G. W. Co.'s account has not at its credit sufficient to retire them as they respectively fall due, exchange on England shall be supplied for that purpose.

"This slight modification, although it will not alter or affect the totality of the plan your letter sets forth, will suit us better, as we are desirous to delay pressing on our colleagues in England for funds until some of the present depression shall have passed away.

"We are, dear Sir, yours faithfully,

(Signed) "C. J. BRYDOES,

"Managing Director, G. W. R. Co.

(Signed) "THOS. REYNOLDS,

"Financial Director, G. W. R. Co.

What a flourish of trumpets there was then! How ready they were to sing praises and to shout hosannas in our favor at that time! And how we were entitled to their best thanks for the liberal manner in which their wishes were responded to! But the old recollection of the Great Western people of Mr. Rom's liberality and good qualities has departed; and he is no longer the Mr. Rom of former days. He is looked at through different spectacles now, and those spectacles must have been made out of the distorting medium which serve as bull's eyes at the head of these gentlemen's trains. We have now, gentlemen of the jury, arrived at the close of the year 1858, and I have explained to you the various memoranda of the transactions connected with this account up to that period. We will now go a little further forward, into the year 1859, in order to show you the manner in which they continued to carry on this account. They say that they gave us a statement at the opening of the account in 1858, showing the exchange to be drawn each month, and representing in the aggregate \$705,000. They say, further, that in the spring of the following year, 1859, they were exceedingly anxious to make arrangements about a number of promissory notes in New York; and Mr. Rom, who was going to New York, was to deal with those notes, as they imagined, on account of the Bank. A certain statement was given, which, it has been urged by my learned friend, on the instructions he received from his clients, was intended to be used solely for one purpose, and we used it for another. That statement was the statement of the liabilities and assets of the Great Western and Detroit and Milwaukee Railway Companies, in which there is the balance of \$1,055,000 brought out at the end of the year. They hinge their case in a great measure on this—and my learned friend puts it in the strongest light possible—that we received this statement for one purpose, and used it for an entirely different purpose. He says it was given to us to be exhibited to the bankers of New York on one account, and we employed it in regard to a very different account. We shall see how this tallies with the facts. People who make these statements ought not to write those letters. Persons not having good memories should not speak as though they had good memories. It is better for such, a great deal, to act on the *non me recordi* principle, than thus to throw stones from their glass houses. On the 25th of May, 1859, we received this letter:

"GREAT WESTERN RAILWAY,
"HAMILTON, C. W., 25 May, 1859.

"C. S. Ross, Esq.,
"Cashier Commercial Bank, Kingston.

"DEAR SIR,

"Mr. Park kindly undertook, a few days ago, to communicate our desire to be favored with an interview at Kingston, in order that we might explain to you our position in reference to our accounts with your Bank, and that arrangements might be made to relieve us from the necessity of supplying you with exchange on England in June.

"In Mr. Campbell's reply he states that the Bank cannot do without our exchange, and that our journey to Kingston, if we went, would not be productive of any advantage regarding the settlement.

"We very much regret this, as our arrangements are such that we cannot give the exchange; and if, therefore, you still require it of us, it will entail upon us the necessity of arranging, at any price, on this side, to keep faith with you.

"We intended to show you the position we are in, and the arrangements we desired to make to carry us over the present year.

"We enclose you a sketch of our liabilities, both on G. W. and D. & M. ac., and at the foot an estimate of the net receipts on both lines, after allowing for working expenses. The first is as nearly correct as it is possible to make it; there will be no material variation in those figures. The assets are purposely put down below what we believe they will on the average prove.

"The result is, that by the end of the year there will be a surplus asset of upwards of \$200,000, which will relieve by that amount at least the present overdraft, and make it then less than the amount we understand as our standing credit.

"We need not remind you that of the item 'Bills payable,' in the enclosed, the largest amount is held by your Bank, and therefore the payment of them will simply transfer to our debit sums which, to that extent, you are already under advance for on our paper to other parties.

"It is quite clear that if we could now draw on England for say \$150,000, we should have to remit back again in a few months.

"We should have much preferred to place our position personally before you. We have now done so in writing; and if your own plans are such that the Bank cannot do what we require, it will be absolutely necessary that we make arrangements in this country to carry out the programme enclosed herewith.

"We feel that if we have to open negotiations for the supply of our wants, either with New York or Canadian Banks, it will most probably render imperative a change in our relations with the Commercial Bank, which, from the very liberal and courteous treatment we have always received from yourself and all connected with it, we should exceedingly deplore.

"It is our earnest desire to avoid, as far as we can, any such contingency, that we have now placed you in full possession of our wants; and we need hardly add that the very earliest response to this letter will be desirable; because, as the 15th June is now so nearly at hand, we have no time to lose if you insist upon our redeeming our promise to give you exchange on that day.

"We are, dear Sir, faithfully yours,

(Signed)

"C. J. REYNOLDS.
"THO. REYNOLDS."

This is what they forwarded to us when they found that they could not give us exchange as they promised, and yet they now say that it was sent for an entirely different purpose! They sent us the estimate on the 28th of May. At the foot of the statement accompanying them is a note, stating that that paper was the estimate of the net receipts on both lines, after allowing for working expenses. And what was that statement sent for?

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Had it nothing to do with the notes or bonds? Oh, no! Here is the letter of the 28th of May, written three days afterwards by Mr. Reynolds:

"GREAT WESTERN RAILWAY,
"HAMILTON, CANADA WEST, 28th May, 1859.

"W. H. PARK, Esq., Commercial Bank.

"DEAR SIR,

"I have now the pleasure to enclose for transmission to Mr. Ross, at Albany, the following documents
viz. —

5 D. & M. Notes, at 2 mo. date.....	\$50,000 each.
5 do. do. 3 "	50,000 "
5 do. do. 4 "	50,000 "
5 Bonds under the seal of the Great Western Co., at 6 months, Co.....	50,000 "

A memorandum of Liabilities and Assets of the G. W. and D. & M. Co.'s to 31st Dec. next.

And lastly, a statement of the total Liabilities of the D. & M. Co. on Notes, with dates of maturity.

"The D. & M. Bills and the G. W. Bonds being all payable to the order of Mr. Brydges and me, we have endorsed them in blank.

"Two of the sets of D. & M. notes are to be returned to us; and as soon as the set to be made use of by Mr. Ross shall have matured, they are, it is understood, to be retired or provided for by the Bank to the debit of the D. & M. Co.'s account, and the G. W. Bonds to be returned to the G. W. Co., to be cancelled.

"The Bills and Bonds being all endorsed in blank, the package containing them is a valuable one; I hope therefore you will excuse me for asking you to be so good as send me by the bearer two lines to assure me it has safely reached your hands.

(Signed)

"THOS. REYNOLDS."

And that, I suppose, was received for an entirely different purpose! They forgot the letter accompanying the statement of receipts, as it is described in their letter, when they thus charged us with being guilty of a fraudulent and improper act. But there is another little memorandum bearing on this point. We also received from Mr. Reynolds a statement, made up to the 31st of May, of the different balances, and that statement read as follows:

Present D. & M. Dr. Balance.....	\$288,000
Provision for Coupons in May, say.....	42,000
" " Bills "	60,000
	<u>\$390,000</u>

ASSETS AT 31ST MAY.

G. W. Balce. at credit 23rd April	\$35,000
Average weekly rec'ts, to 31st May.....	250,000
" " rec'ts, D & M.—5 weeks	60,000
	<u>\$345,000</u>

LESS.

Wages, &c., G. W.	\$50,000
" " D. & M.	25,000
Wyandotte Bond	90,000
	<u>165,000</u>
	<u>\$180,000</u>
	<u>180,000</u>
	<u>\$210,000</u>

Who mixed up the statements here, I wonder? This joint statement is in Mr. Reynolds' handwriting. Were we standing by directing Mr. Reynolds' pen when he wrote that? Had we some one there, whispering persuasions to him to make out an account against himself? Is this a forgery of ours? Is it some new enormous fraud of the Commercial Bank, or is it really and truly *bona fide* Mr. Reynolds' own handwriting? It is Mr. Reynolds' handwriting, and the explanation of it I dare say you heard. At any rate, I did; and it carries out our view of the transactions one after another. Here, then, we have the documentary evidence bearing upon the first proposition. You have here the *visu voce* testimony and the documentary testimony. I throw aside all those extraneous things to which my learned friend has referred, as matters of no consequence. Some men think they look well in print; others, that they shine in letter-writing. But what Mr. Park said or wrote privately to Mr. Reynolds, is not a matter of the slightest consequence to this case. Unless he wrote on the direct business of the office, we have nothing to do with his letters. Having now gone over the evidence bearing on the first proposition, I will address myself to the second. Had Messrs. Brydges and Reynolds authority from the Great Western Company to make financial arrangements for the Detroit and Milwaukee Company, on account of the Great Western Company, to the extent of £250,000 sterling, and was the account with the Commercial Bank opened and conducted by them in pursuance of such authority? Now, the authority which Messrs. Brydges and Reynolds possessed is contained in the celebrated red book. Here is the resolution passed on the 8th October, 1857:—"That the Directors be authorized to advance to the Detroit and Milwaukee Company such an amount, not exceeding £150,000 sterling, as may be necessary to ensure the completion of the Railway across Michigan, in connection with the Great Western Railway of Canada; such advance being made as a temporary loan, and on sufficient security; the expenditure of the same being subject to the control of the Great Western Railway Company."—And on the 2nd November, 1858, this other resolution was adopted:—"That the Directors be authorised to advance to the Detroit and Milwaukee Railway Company a further sum of money, not exceeding £100,000 sterling, to be expended by and under the control of the Great Western Railway Board of Directors."—We have here, therefore, two votes of the shareholders, one for £150,000, the other for £100,000, to be expended by Messrs. Brydges and Reynolds, the Managing and Financial Directors of the Great Western, without reference to their co-Directors here. So that it seems that the Directors in Canada—including my learned friend Mr. Becher—are only wooden Directors. They had not even that wonderful tin box, described so well by my learned friend Mr. Eogles. They were only dead-heads; nothing more. And it is the men on the other side of the Atlantic who pull the wires; and as they pull them, you see the Directors on this side pop up and pop down, like a Jack-in-the-box. (Laughter.) Aided by such influences, Mr. Brydges has gone on from one degree to another, until nearly all the railways in Canada are under his control; though I must say this for him, that being under his control, they are under good control. Well, Mr. Brydges and Mr. Reynolds did all this without the slightest reference to the other Directors, including Mr. Becher, who carries a good deal of the wisdom of this Company in his pocket, and a good deal too in his head. But the other Directors had nothing to do with it, the whole of this great expenditure being placed under the control of Messrs. Brydges and Reynolds; and that is the reason why you do not find an accountant's or secretary's name to the Detroit and Milwaukee cheques. No one on this side was to interfere with Messrs. Brydges and Reynolds, but everything was left to them, to be managed entirely in their own way. You will observe that there were two sets of officers. There were Messrs. Brydges and Reynolds, the Managing and Finance Directors, and Messrs. Brydges and Reynolds, the President and Vice-President. And then there was Mr. Mingaye, who was Paymaster of the Great Western when he held the money in his right-hand pocket, and Paymaster of the Detroit and Milwaukee when he shifted it into his left-hand pocket. (Laughter.) The thing is plain—as clear as mud. In the morning of one day they would, as officers of the Detroit and Milwaukee, have written to themselves as officers of the Great Western; and in the afternoon they would, as officers of the Great Western, have replied to the letter they had written in the morning as officers of the Detroit and Milwaukee. I would like to see the correspondence which passed between themselves in reference to this particular transaction. Their cheques, my learned friend says, had a printed heading—"Detroit and Milwaukee Company's Office." But where was that office? Was it not Messrs. Brydges and Reynolds' office, attached to the Great Western Railway at Hamilton?

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Mr. M. C. CAMERON—No. It was the Accountant's and Secretary's office—the office of those gentlemen who countersigned the cheques.

Hon. J. H. CAMERON—That office is in Detroit, and it could not have been there that the President and Vice-President established themselves. I recollect a professional friend of ours who used to carry his office in his hat; and one day when his hat fell off, his office flew away, and all his papers went with it. (Laughter.) And I am quite satisfied that Messrs. Brydges and Reynolds might as well have had their office in their hats as well, for any business they did apart from the Great Western Railway. It is plain, I think, that the two votes of £150,000 and £100,000 were to be expended under the direction of Messrs. Brydges and Reynolds; and in this connection there is a little fact alleged which must have astounded Messrs. Brydges and Reynolds as much as it astounded myself when I first read it. There are such things as "cooked reports," and modes of "making things pleasant." With the introduction of railways, many curious things came in, and among others that of "making things pleasant." Here is a statement, signed by Mr. Gill, in answer to such charges:—"It ought to be observed, also, that the facts contradict the inference of the Committee, that these payments could only be made out of the loan. The following figures will show that the Detroit and Milwaukee Company had other resources—There has been expended for works, including stations and rolling stock, actually executed or supplied between the time the Great Western loan was granted and September 30th, 1880, £302,541 10s. 6d.; of which the Great Western loans provided £250,000; excess, £52,541 10s. 6d."—The poor, innocent shareholders, who never went into these accounts, would imagine that the £250,000 had been expended for works, including stations and rolling stock. And hear what is said further down:—"In addition to this excess of expenditure of capital beyond the amount of the Great Western Railway loans, very considerable sums have also been paid for interest on the Detroit and Milwaukee Company's bonds during 21 years, for old debts due by the Company, for payments to Directors, &c. These sums amount to about £200,000, and which, together with the above excess of £52,541, have been provided for out of traffic earnings, or advances from bankers and other sources; and these latter items form the floating debt of the Company, for which it is proposed to issue preference shares, ranking after the securities held by the Great Western Railway."—When they say that these latter items formed the floating debt of the Company; resting I suppose in the clouds, you see where the million of dollars belonging to the Commercial Bank have gone. In the statements of these gentlemen, who are so particular as not to offer anything to the shareholders but what is strictly correct, you find the allegation that every farthing of the £250,000 sterling was expended on the completion of the works, when in point of fact \$400,000 were spent in the bonds. And when we find this to be the case, we cannot perhaps be very much surprised at finding deficiencies in the various sums of money. We now go a step further in our enquiry as to the authority possessed by Messrs. Brydges and Reynolds. On page 33 of the red book is the following paragraph:—"Adverting to the sum of £7,000 advanced by Messrs. Brydges and Reynolds to the Port Huron and Milwaukee Railway, it was unquestionably an irregular proceeding, but the Board, at the time, considered that the payment had been made in perfect good faith with the sole desire of carrying out what was supposed to be the policy of this Company, and serving its interests at a very critical period; and as Messrs. Brydges and Reynolds had incurred in this matter a personal responsibility, the London Directors felt called upon to allow the payment, and it was subsequently confirmed by the Canadian Board. The amount was always included in the item of "Amounts due to the Company," and has remained in the general balance sheet, in the hope that it may be some day recovered." In this case you find an instance of these gentlemen incurring personal responsibility; but they had no idea of paying the money out of their own pockets, and accordingly made the expenditure a charge on the Great Western Company. That was an account due by the Great Western as is this account due by them to the Commercial Bank. The Great Western Railway Company fathered that Port Huron Railway debt, and you, gentlemen of the jury, will make them, I am sure, father this debt in the same way. The third point to be submitted to you is this—had the Commercial Bank notice at any time, while the account was going on, that Messrs. Brydges and Reynolds had exceeded their authority, or that more than the two loans of £250,000 sterling had been expended. I assert that the Commercial Bank never had such notice. The only time when they heard anything at all about it was in December, 1858, when it was told them that there was another £100,000 still to be drawn for. They do not pretend to say that they gave us notice in any way whatever.

And to shew you what were the views of Mr. Brydges himself in reference to the transaction, we have to look at the terms he pursued in London when he made application for the last loan. Two loans, representing in the aggregate the sum of £250,000, had been made, and the directors say that for that sum they had received a railway; and they go on to say—"Your Directors would venture to ask their shareholders, what railway company would not gladly purchase for £250,000 the entire control of 185 miles of railway, forming an extension of its own system?" And Mr. Brydges, in his letter, says:—"It must not be forgotten either, in considering this question, that for an outlay of £250,000 we have secured absolute control of a Line of Railway 185 miles in length, running through a growing and thriving country, and by its connexions west of Lake Michigan, securing to us the great bulk of the through traffic of the States of Wisconsin, Iowa, and Minnesota, the population of which has more than doubled in the last ten years." You thus see, gentlemen of the jury, that the Great Western Railway Company had expended £250,000 on this road and had obtained actual possession of it. They were its masters. They had six directors on the Board, and the Managing and Finance Directors of the Great Western—one of the greatest railways in Canada—were respectively its President and Vice-President, and had complete control of it. What then, did they want another £250,000 for? Do you not think it was because they knew there was still £250,000 due to us? Why else should they require another £250,000 when the railway with its rolling stock and plant complete had passed under their own control? It could be for no other reason that it was felt that the Great Western Railway Company were still responsible in a very large amount to the Commercial Bank. Do you believe that if the other £250,000 had been procured our account would not have been paid? Is it not evident that they feared—these Managing and Financial Directors—that if this just claim were not met, the whole of the circumstances would be brought to light in a court of justice? They had everything they could desire. The Managing Director was congratulating the other Directors, and the other Directors were congratulating the Managing Director, and there was shaking of hands between them, and bowing to one another like so many Mandarins, delighted and pleased at their having obtained possession of this road. And yet they ask for £250,000 more. For what purpose? Why that the Great Western, which had no other debt to pay, might pay off this debt to the Commercial Bank. There is no other way of accounting for their desire to raise the other loan than that they wanted to be thus relieved from the odium which would be cast upon them of having to appear before a Court of Justice in connection with this case. I come now to the fourth proposition:—Did the Great Western Company reap the benefit of the expenditure made by the Commercial Bank on the Detroit and Milwaukee account? I think there can be no doubt they did. The whole of the rolling stock and other property was paid for by moneys taken out of the Commercial Bank, and the Great Western Company had, and still have full control of the road. Therefore, the fourth question I think must be answered equally with the other questions in the affirmative. This completes the four propositions which I imagine his Lordship will submit to you as the leading principles involved in this case, and on each of which I contend we are entitled to favourable replies. But apart from these considerations, in the course of the case the defendants made certain statements and allegations which had not, in my judgment, anything to do with the case itself, and should not properly have been brought into it in any shape or form, or under any circumstances. In the first place, they attempted to make what they could out of the statement that at the time of the meeting in London last year, when Mr. Campbell, the Inspecting Director of the Commercial Bank, was present, some one made the assertion that the Great Western were indebted to their Bankers in Canada, and Mr. Brydges, with that massive terseness, which is habitual to him, said it was not true. This may be called, in vulgar parlance, giving the lie direct. It is alleged that Mr. Campbell heard Mr. Brydges say that it was not true, and that Mr. Campbell did not say it was true.

Mr. M. C. CAMERON—The statement was made in a printed pamphlet.

Hon. J. H. CAMERON—It is a very good thing, gentlemen of the jury, to be able to read and write; but I do not know that it was incumbent on the Inspecting Director of the Commercial Bank, who had gone to England for the benefit of his health, to apply himself to refuting the statements of anonymous pamphleteers. I am satisfied of this, that my learned friend would not have done so himself had he been in England at that time, under similar circumstances. Mr. Brydges was looked upon as the great luminary of the West, come

across the sea. And I am certain that my learned friend would have been awed, too, at the deference paid him—had he seen him standing forward amongst the people—had he seen the manner in which they made way for him, and heard the earnest cry which goes through the crowded room on such an occasion at the London Tavern, or perhaps the Albion, of—"Here is Brydges!" "Where is Brydges?" "Which is Brydges?" Everybody looking for Brydges. And at last, after a good deal of squeezing and excitement, my granite friend is seen standing near the head of the table making, what the next morning's papers will call "a masterly statement." (Laughter.) Is not this picture true to the life? And for Mr. Campbell to offer any opposition on such an occasion, surrounded, as he would be, by some six or seven hundred railway men, would be as foolish as for a bull to run against a locomotive. Every one knows that a bull tried this experiment once, and every one knows the consequence—the locomotive smashed the bull. No; Mr. Campbell, surrounded, as he was, by such a body-guard, if he had risen to have offered any contradiction would have met with the fate accorded to the gallant Six Hundred who rode into the Valley of Death. Mr. Campbell wisely held his tongue, as I think my learned friend would have held his, had he found himself placed in like circumstances. It would have been better, perhaps, had those from whom he has received his instructions kept in their pockets the private letters which have been read during this trial. We have private letters, too, but we scorn to use them. What we say is, that it is desirable that a great question like this should be fought out on public grounds, and that no private correspondence should be dragged into it. We have said nothing about the various charges against these gentlemen contained in the report in regard to them. Many of them, I believe to have been made by interested persons, and by those having enmity to Messrs. Brydges and Reynolds, and they ought not, therefore, to be believed. And I assert that the same feeling ought to have protected us from any insinuations of an unworthy nature on their part; and that they ought not to have dealt with the private correspondence of the gentlemen connected with the Commercial Bank. These letters had nothing to do with the case, and they were only brought forward with the view of injuring the character of the officers of the Bank. It is well, however, that they stand before a jury from the section of country in which they have lived for so many years, who have known them in their daily life and conduct, and who are persuaded that they are incapable of using their position in the Bank to serve their private purposes. I simply allude to this because had I allowed it to pass without observation, it might have been said that I was afraid to answer the charge they have made. It was a great error, a great mistake, for them to have referred to these matters at all, for they have nothing to do with the case, though they go to show the kind of animus with which the defence has been conducted against the Commercial Bank. It has been said that these gentlemen of the Great Western have come into court, as it is hoped they will go out of it, without a stain upon their character. But I must be permitted to say this, that if they go out of it with our money, they also go out of it with the loss of their credit. It cannot be that any man, or any body of men, can, by a mere quibble, as to what they call "the letter of guarantee," being without a seal, be allowed to appropriate our funds to the extent of a million of dollars; and I believe that you, gentlemen of the jury, upon the facts submitted to you yesterday and the day before, will find every one of the four points, which I have read to you, in our favour. It is true, that as a banking institution, we have no two thousand people employed, for whom we can claim your consideration; but the two thousand persons employed on the Great Western, have eaten the food which has been supplied by the moneys drawn out from our Bank; and why should they be kept at our expense? Gentlemen of the jury, we claim at your hands that justice to which we feel we are entitled. We say that our money has been lent to the Great Western Railway, and they have used it on the Detroit and Milwaukee, in conformity with the powers conferred upon them, not merely by votes of the Shareholders, but by an Act of Parliament, which has made legal that which might not have been legal before; and we say that we have a right, therefore, to come before you and ask for a verdict in our favour. Feeling that, under all the circumstances of the case, we have done our duty to the Shareholders of the Bank, we are satisfied to abide by your judgment, assured that you will thereby declare that we have acted for the best interests of our constituents—that we have adopted a straight forward course of action—that we are only now claiming from the Great Western that which, in the original inception of the account we should have felt bound to have paid them, had the same balance been against us—and that, in resisting this claim, the Great Western Railway Company are acting against good faith and justice, and ought to be made, therefore, to pay it to the uttermost farthing.

CHARGE.

The learned JUDGE, in summing up, said—Gentlemen of the jury, you have now heard both sides of the case, and I shall not occupy your time to any great extent in placing the evidence before you. I shall submit the question to you in writing, and to ask you to give me a written reply; and that being done, I shall confine myself to but a few observations. With questions entirely legal I shall not trouble you. They are reserved for the court above, and the court above will deal with those questions on hearing argument on those facts. I shall no doubt hear enough of them then, without taking up your time in discussing them now. Neither shall I again read through all the documents and papers; for if I were to do so, I should consider it a waste of my time, inasmuch as I have other matters to dispose of besides this case before these Amies close. If there are any matters which you would like to have investigated, as to questions of fact, or if there is any documentary evidence on which you would like to refresh your minds, you have only to call upon me and your wishes will be complied with. At present, I do not propose to read over the papers and make comments upon them. It is the duty of counsel on both sides to do this, and they have done so. Each party has had the opportunity of making the most of such evidence as has been given in their favour, and I suppose they have both done so. Bearing upon questions of fact which will be submitted for your consideration, and, through you, for the guidance of the court above, on the legal questions which will come before it, there are several points which you will have to pronounce upon. We find, in the first place, the origin of the transaction out of which this suit has grown to be this:—In August, 1857, the present defendants, the Great Western Railway Company, for some reason or other which it is not material or necessary to make enquiry into, thought proper to change their account from the Bank of Upper Canada to the Commercial Bank. Anterior to that time, there had been a growing disposition on the part of the Great Western Railway Company to obtain the control of the American Company which has so largely formed the subject of attention here during the last three days. Somewhere about the month of August this discussion was carried on between them in England. It seems that the result was, the English shareholders sanctioned the procuring of the road, and appropriated to the purpose £150,000 sterling. Mr. Brydges then came out from England, and the same year Mr. Reynolds, the financial director, arrived. It appears that they were armed with power to carry out the arrangement, having been made by the English shareholders distributors of the money, and having been by them directed to take control of the road.

Mr. M. C. CAMERON—I fear your Lordship is putting the case to the jury too strongly against the Great Western. The control of the road was simply given them to secure the proper disposition of the money which had been advanced. After these advances had been repaid, the Great Western would have no other interest in the road than in any other road running in connection with them.

The learned JUDGE—I am not supposing they would. Well, gentlemen, in December, 1857—the year of the arrival of Mr. Brydges—it seems that one of the officers of the Commercial Bank, the Manager at the branch in Hamilton, being made aware that a considerable sum of sterling exchange—as much as £150,000 sterling—would have to be drawn for on England, thought it would be worth the while of the Commercial Bank to obtain that exchange. Then, the first transaction out of which this account arises is attributable to a desire of the defendants, or their officers at all events, to have the control of this American company; and they evinced their readiness to spend a certain sum of money to run it in connection with their own. Next we find the Commercial Bank, through their officers already mentioned, desirous to have the benefit of the exchange about to be drawn on England. This is the origin of the transactions which gave rise to this suit. Mr. Park, the Manager at Hamilton, communicates with Mr. Ross, the Officer at the Bank in Kingston, and Mr. Ross goes to Toronto with a view of meeting Mr. Reynolds, the financial director of the Great Western Railway Company, in order to make their arrangements. Now, let us see what took place at that interview. It is a thousand pities that these parties did not at once reduce to writing the agreement which took place between the Bank and the Railway Company; for had they done so, we should in all probability have had

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none of this difficulty. The arrangement, whatever it was, seems to have a mere verbal understanding—nothing was committed to paper. At that time the Bank were the bankers for the Great Western Railway proper. Well, they met at Toronto, and let us see what took place there. The interview was between Mr. Park, Mr. Ross, and Mr. Reynolds. Mr. Park, in his evidence, says that he was present at the meeting in Toronto. He states that Mr. Reynolds represented that he wanted a credit account to be opened with the Detroit and Milwaukee line. He does not remember that any sum was mentioned. He says that Mr. Ross declined to open such account, and gave as a reason for refusing that the Detroit and Milwaukee Company were embarrassed and that their bonds were depreciated. Mr. Park says that they declined to open an account in the name of the Detroit and Milwaukee Company, but Mr. Ross stated that the Bank would open an account for the Great Western as "Account No. 2," bearing in mind that they already had another account at the Bank. But Mr. Park says that Mr. Ross refused to have anything to do with the Detroit and Milwaukee line. Mr. Reynolds objected to have the account opened as "No. 2," on account of the confusion which might thereby arise in drawing the cheques; and then Mr. Ross proposed that they should open the account as it stands entered in the books now put in. Mr. Reynolds asked that the account might be opened in this manner to avoid confusion in drawing the cheques; and this, Mr. Park says, was assented to. This, you will observe, is Mr. Park's view. Mr. Ross, when called, said,—"At that meeting," meaning the meeting in Toronto, "Mr. Reynolds proposed that we should give credit to the Detroit and Milwaukee Company, to be met every month by sterling exchange on the Great Western in England. I declined this, but told him we would give credit to the Great Western, and the payments were to be made in the same way. There was no disagreement as to the mode in which the bank were to be reimbursed for their payments." Mr. Ross went on to say that it was then proposed the account should be opened as Great Western account No. 2; but Mr. Reynolds thought this would be objectionable on account of the confusion which would arise in drawing the cheques. Mr. Ross says, he then suggested that the account should be kept as it actually has been kept in the Bank ledger, and that to this Mr. Reynolds assented. In his cross-examination he said,—"I understood at the first meeting with Mr. Reynolds that the Great Western were to have the control of the Detroit and Milwaukee line—that, in fact, that line was to be a branch of the Great Western." Now, in contradistinction to this, Mr. Reynolds, on being examined, said,—"I asked Mr. Ross, after showing him the statement, as to how it was proposed to reimburse the Bank, what was expected from traffic receipts, and speaking of the exchange which they might draw upon monthly—I asked Mr. Ross, after showing him this statement, and telling him this to allow Mr. Brydges and myself to draw for our wants, and we would cover it at the end of each month. I never proposed that the Great Western should draw. I had no authority to bind them. I never agreed that the Great Western should be drawers of the money." And he also said, in cross-examination,—"I told Mr. Ross that Mr. Brydges and myself were becoming officers of the Detroit and Milwaukee Road, but we were not so then, and that was the difficulty in opening the account. Therefore it was opened in our individual names, and we made the arrangement with Mr. Ross on our individual responsibility. I distinctly deny what Ross and Park have said here to-day." Now, here is the testimony of these three gentlemen as to what was the foundation of the arrangement for opening the account. It was a verbal transaction—a transaction not reduced to writing. It is not for me, gentlemen of the jury, to make any observations derogatory to the standing of the gentlemen who made these different statements. It is for you to examine the whole case and find out where the truth lies. Unquestionably there is a diametrical contradiction between them as to the mode agreed upon for opening this account, and it is within your province to dispose of the matter. On both sides they are gentlemen occupying a high position in the country—trusted largely with the funds of others, and with the management of offices which require to be conducted by gentlemen of integrity and character. It is not for me to make any observations further than draw your attention to the fact. I would not assert that either of these gentlemen would be swayed in his judgment by the consideration of the position he holds—that he thought that unless he gave testimony which suited his own view of the case he would be imperilling his own position and situation. I do not attribute such motives to the gentlemen on either side. And I venture on these observations to show you that one may dispose of the testimony in this respect without giving either of the gentlemen credit for unworthy or corrupt

intentions. I presume every person conversant with the administration of justice and the examination of witnesses knows very well that in matters depending upon the vision, there is no one subject which so often occasions remarks as to the discrepancy of evidence given from different points of view. One witness sees a transaction in one light, a second sees it in another, a third sees it in a different aspect; and they differ it may be widely in giving evidence on the same matter of fact, simply because they did not all view it from the same stand point. We must not on that account attribute dishonest motives to them, because they gave different versions of the same things seen from different positions. Such being the case, as I have myself repeatedly remarked to juries, we must take also the other facts into consideration, and from a review of all the circumstances form the judgment. And so here, you must take all the facts into account, and render your verdict in accordance therewith. I apprehend that what has just been said as being correct in regard to the view or vision of witnesses, may be equally applicable to the mind and judgment, inasmuch as the perceptions, the mind, and the judgment, may be at times warped by circumstances over which perhaps we have no sufficient control ourselves. Thus it may be presumed, that sometimes evidence of a contradictory character may be given honestly on both sides. In illustration of the point we are now considering we have a notable instance in one of the writers who was lately amongst us, but who is now dead and gone—one of the most agreeable and pleasing writers known to our literature—I refer to the late Lord Macaulay. His works are agreeable to almost any person who reads them, no matter what the views of that person may be; yet we know very well at the present day, that having analysed his writings, many things which have been stated in them as facts are in truth misrepresentations. Still I apprehend that probably not any, except perhaps a very few who may be bitter enemies of Lord Macaulay, would think that he wilfully misrepresented things. I apprehend that the great majority would not suppose for a moment that he would do so. The presumption would be, that the circumstances I have already alluded to as likely to warp the vision might be applied to the mind and to the judgment; it would be supposed that his mind would be warped in a certain direction, and from which he was not able to free himself. We well know that human nature is liable to err, and it is as liable to err in regard to the mind and judgment as to the vision. At least such is my opinion. Then applying this test, it is necessary for you to examine into the whole facts of the case, in order that you may determine which of those parties has told us what actually did take place at the meeting held in the month of December, when the account was opened, in order that you may ascertain whether it was opened as a Great Western account or a Detroit and Milwaukee account; in other words, who are responsible to the Commercial Bank for the monies advanced—the Great Western Company, the Detroit and Milwaukee Company, or Messrs. Brydges and Reynolds. The different cheques it is not necessary for me to read again. You will see that they have been drawn in the names of these gentlemen, and have been paid by the bank. You have seen the account, and the manner in which it was opened and carried on to the month of December, 1858. You have seen also the mode in which the bills for the money were drawn on England by these two gentlemen. You have heard the various accounts of what took place before the Boards of Directors on both sides, and the non-appearance before the Financial Board and the General Board of Directors of the Great Western Railway in Canada, of all written mention of the monies which were to be drawn on England in favour of the Bank. You have heard all this, and upon it you have to form your judgment. Stop there—make a pause, and consider for a moment which party is right in his statement as to whom the credit was to be given. You have heard all the letters read, and you have heard them interpreted in different ways, and you must form your own conclusions from their contents. Then we come to the letter of the 16th December, 1858. That was another important transaction which occurred in the carrying on of this account. That letter, of course, speaks for itself. That the language is plain, there can be no question. But we must consider what gave rise to it, and the object for which it was written, because evidence on the surrounding circumstances of a letter like this is always admissible with a view to its correct interpretation. What Mr. Park says about it is this: when he looks at the letter he says,—“This letter was written in consequence of an interview had with Mr. Campbell, the Bank Inspector, and Mr. Reynolds. This took place at Hamilton, and was caused by an enquiry about the standing of Messrs. Brydges and Reynolds”—which we see afterwards is connected with the building of the steamboats on Lake Michigan. These boats had something to do with the Detroit and Milwaukee, as well as with

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the Commercial Bank, inasmuch as we see that cheques are drawn on the Bank by Messrs. Brydges and Reynolds, and headed, "Steamboat Account." Mr. Park goes on to say,—"It was desired to have an understanding with Messrs. Brydges and Reynolds, as to the position of the account, in writing"—because, as you will remember, Gentlemen of the Jury, it was only a verbal understanding up to this time. Mr. Park says: "Mr. Campbell said to Mr. Reynolds that there was only up to this period a verbal understanding as to the mode in which the account should be kept, and it was desirable to have it reduced to writing. Mr. Reynolds did not object, but said it should be given in a letter, and the letter was given next day. Nothing was then said, or at any time afterwards, about the defendants repudiating the debt." This is what Mr. Park said in his examination-in-chief, as to what passed with Mr. Campbell about the matter. On the other hand, we have Mr. Reynolds' testimony, and it is very different on this point from Mr. Park's. He said the Bank wished to have this document, that they might have some record in their office of the transaction. You have heard from Mr. Park how this matter stood between them. But Mr. Reynolds represents it in this way, as to the letter of the 16th December, 1858: He says, "I met Mr. Campbell with Mr. Park. At that time the account was much overdrawn, and he wished that I should cover it by exchange." This is the representation of Mr. Reynolds as to what took place, and you have heard the arguments about the matter on both sides. "I told him," continued Mr. Reynolds, "that we could not draw exchange just then. This also had reference to the second loan of £100,000 sterling." It seems, therefore, that this second loan had been sanctioned at the time this conversation took place. He says: "I told them the Bank would have to be satisfied with this letter, without the bills of exchange, for the present; and in consequence of the account being overdrawn, I sent the account to Mr. Park the next day." These, then, are the statements of both parties. Mr. Brydges was not present at the meeting, and only heard afterwards of the arrangement. Mr. Reynolds also says this in cross-examination: "When I sent the letter of the 16th December, I supposed we were pledging the Great Western to the extent of the loan. A portion of the first loan was then unexpended, and the whole of the second loan had not yet been drawn for. The conversation between Mr. Campbell and myself related only to the account overdue; but I intended this letter to cover everything to the extent of the loan. When the negotiations with M. Ross arose, I was acting as the financial director and agent of the Great Western Railway." Now this, gentlemen, is the transaction about the letter in question, and there are two different causes given for the writing of the letter. In how far the correspondence which has been read to you bears upon this subject, as I have already remarked, I must at present leave you to decide and determine. If there is anything upon which you require to make your minds clear, if you ask for it, it shall be given you. I have thus pointed out the discrepancies between the evidence of the witnesses on the one side, and the witnesses on the other. As to the rest of the *viva voce* testimony, I do not apprehend that the witnesses conflict with each other at all. A great deal of the evidence in this case is of a documentary character, and you must judge from these papers also, where the truth lies, and to whom the credit is to be given. But besides this, there are one or two other matters to which I should draw your attention. Mr. Brydges and Mr. Reynolds both deny that they had any authority whatsoever to bind the Great Western Railway Company. On the other hand, there have been resolutions and documents put in, showing what took place in England, and with a view to prove that what Messrs. Brydges and Reynolds did in Canada they did with the sanction and concurrence of those by whom they had been sent out. Now, I shall give to you a series of questions in writing, in effect pretty much what Mr. Cameron has submitted to the Court, and I shall ask you to give your answers to them in writing.

Firstly—To which Company was the credit given by the Bank—to the Great Western, or to the Detroit and Milwaukee? or was the credit given upon the responsibility of Messrs. Brydges and Reynolds, irrespective of either Company?

Secondly—Had Messrs. Reynolds and Brydges authority from the Great Western Company to make financial arrangements for the Detroit and Milwaukee Company on account of the Great Western Company to the extent of £250,000 sterling, agreed to be loaned by the Great Western Company to the Detroit and Milwaukee Company, and was the account of the Commercial Bank opened and conducted by them in pursuance of such authority? I have already said (added the language) that it is for you to determine whether they had such authority or not.

Mr. M. C. CAMERON—I submit, my Lord, that it would be improper to put the question in this way. The only question to be submitted to the jury is, whether, under the evidence, they are of opinion that Messrs. Brydges and Reynolds had the authority of the Great Western to make arrangements with the Commercial Bank.

Hon. J. H. CAMERON—Indeed, I think his Lordship has put the case in the only way in which it can be submitted.

The learned JUDGE—I shall most certainly put it to the jury in this shape.

Mr. M. C. CAMERON—Well, my Lord, I must make the objection. They unquestionably had authority to make arrangements with the Detroit and Milwaukee Company; but this is a different thing altogether from their having power to incur liability on account of the Detroit and Milwaukee Railway. The authority given them was to discharge a liability—not to contract one.

Hon. J. H. CAMERON—And the one is a consequence of the other.

The learned JUDGE—Put your objection in writing, Mr. Cameron, and I will make a note of it. Then, gentlemen of the jury, the next question I have to submit to you is—

Thirdly—Had the Commercial Bank notice, at any time while the account was going on, that Messrs. Brydges and Reynolds had exceeded their authority, or that more than the two loans, amounting to £250,000 sterling, had been expended?

Fourthly—Suppose the original limitation given by the Bank to the Great Western Company on the opening of the account, was there any understood limitation between the parties as to the question of liability, at the time the letter of the 16th December, 1858, was given, either to the extent of the second loan of £100,000 sterling or otherwise? or was the account continued on after that period, in the same manner as before, by the parties?

Fifthly and lastly—Did the Great Western Company, by its dealings with the Detroit and Milwaukee Company, reap the benefit of the expenditure made by the Commercial Bank on the Detroit and Milwaukee account?

Mr. M. C. CAMERON—I must object again, my Lord, that the last question ought not to be submitted in this way. The phrase, "reap the benefit," is altogether an ambiguous one. If the Detroit and Milwaukee Railway is completed, and if it is made a better track than before, undoubtedly they had the benefit of the improvement. But they did not reap the benefit of the money, simply as money; and the question which I apprehend ought to be submitted to the jury is this—Was the money expended on the Great Western proper or its works?

The learned JUDGE—There can be no doubt on this point. The money was not expended on the Great Western Railway.

Mr. IRVINE (after a brief pause)—Will your Lordship be good enough to alter the expression in the last question.

The learned JUDGE—No. I think it unnecessary. Because we all know that in point of fact the money was not expended on the Great Western.

Hon. J. H. CAMERON—Leave the matter to the jury. If their answer is of no consequence then the question falls to the ground.

The learned JUDGE—As a matter of fact, the money was not so expended.

Hon. J. H. CAMERON—And that is the reason why you can employ no other expression than "reap the benefit of the expenditure."

The jury then retired, and after having been absent for a short time, returned into court with the following written answers to the questions submitted to them by His Lordship:—

First—To the Great Western.

Second—They had the authority, and the account was opened and conducted by them in pursuance of that authority.

Third—The Bank had no notice that Messrs. Brydges and Reynolds exceeded their authority.

Fourth—There was no limitation, and the account was continued in the same manner as before the letter of the 16th December, 1858, was given.

Fifth—They did.

The learned JUDGE accordingly entered a verdict for the plaintiffs, subject to be entered for such amount as shall be ascertained upon reference as agreed on.

The following is a further endorsement on the Record by the learned Judge :—

It is agreed by the Counsel for the parties in this case, that the amount for which a verdict shall be entered, if the Plaintiffs shall be entitled to a verdict, shall be ascertained by a referee or referees to be chosen by the parties respectively in Term or otherwise ; and if the parties cannot agree upon a person or persons for that purpose, then it is agreed between the parties that I shall nominate the referee as upon a compulsory reference. The referee to have power, at the request of either party, to report upon the different claims of the account, such as amounts paid upon coupons, upon cheques, upon promissory notes or otherwise ; and to draw up a statement of facts upon each for the opinion of the Court.

In Easter Term, 1862, *Irving* obtained a *Rule Nisi*, in the following terms :—

In the Queen's Bench.

THE COMMERCIAL BANK OF CANADA,

PLAINTIFFS,

v.

THE GREAT WESTERN RAILWAY COMPANY,

DEFENDANTS.

Easter Term, 25th Victoria, The Nineteenth Day of May, in the Year of our Lord one thousand eight hundred and sixty-two.

It is Ordered that the plaintiffs do, upon notice of this Rule to be given to them, their Attorney or Agents, shew cause why the Verdict in this cause should not be set aside, and a Non-suit entered, pursuant to leave reserved at the Trial, on the points following :—

1. The papers and documents put in shew the claim to be for moneys advanced for the purposes of the Detroit and Milwaukee Railway Company ; and the cheques on which the advances were made, do not in any way indicate them to be on account of the Defendants. From December, 1857, to December, 1858, and from December, 1858 to 1859, the cheques put in have engrossed headings of the Detroit and Milwaukee Railway Company, and they purport to be signed by officers of that Company, the action having been opened upon an implied assumpsit for money lent, cannot be supported upon that kind of evidence.

2. The account put in shews that the charges for 1858 have all been met by payments after that period ; and that after that time, that is, after the 10th December, 1858, the letter must be treated and looked upon as a guaranty, and should be sued on as such.

3. No action can be maintained on that letter—

1st. Because it is uncertain whether it covers past transactions, or extends to future advances ; if past transactions, it is void as not containing a consideration on the face of it ; if to cover past and future, it would also be void.



2nd. If applied to past transactions, then credits overbalance debits.

4. That Messrs. Brydges and Reynolds could not bind the Defendants at all, even though under the formality of a seal, as they had no power to borrow money on behalf of the Defendants for the present purpose—the Plaintiffs being aware that it was for the Detroit and Milwaukee Railway Company, that the money was required. Vide the Charter, 16th Victoria, chapter 99; 18th Victoria, chapter 178.

5. The Act allowing the Defendants to lend to the Detroit and Milwaukee Railway Company, does not authorize a borrowing, and contemplates having the funds in hand before lending (22nd Victoria, chapter 116); and so the borrowing was *ultra vires*, and the Plaintiffs being aware in the illegal object of the borrowing cannot recover against the Defendants.

Or why said Verdict should not be set aside, and a new Trial had between the parties—said Verdict being contrary to law and evidence; for misdirection and want of direction on the part of the learned Judge before whom the cause was tried; and for the reception of improper evidence, which said misdirection and want of direction consist—

First—In the learned Judge's not directing the Jury that the Defendants, being a corporation, could not be bound by the verbal arrangements of Messieurs Brydges and Reynolds, their Managing and Financial Directors, in matters beyond the ordinary and usual duties pertaining to those offices; and that those duties did not extend to borrowing money, or obtaining a Banking credit, to be used for the benefit of a foreign railway company; and in leaving it as a question of fact for the Jury to say whether credit was given by the Plaintiffs to the Defendants, or to the Detroit and Milwaukee Railway Company, or to Messrs. Brydges and Reynolds individually, without making it part of the enquiry whether the credit was so accepted, as well as given; and in not directing the Jury that the mere circumstance of the Plaintiffs giving credit to Messrs. Brydges and Reynolds, as the accredited Agents of the Defendants, would not affect the Defendants, unless the said Brydges and Reynolds acted as, and were in fact such Agents, and so accepted the credit, and that a mistake on the part of the Bank in this respect, could not affect the Defendants.

Second—In not directing the Jury that the authority given by the English Board of Directors to Messrs. Brydges and Reynolds, was an authority simply to expend the moneys lent by the Defendants to the Detroit and Milwaukee Railway Company, and to make arrangements with the Creditors of that Company for the settlement of their claims in such manner as to allow the loan authorized by the Shareholders of the Great Western Railway Company, available for the purpose of completing the works of the Detroit and Milwaukee Company, as contemplated by the Shareholders when they voted the loan; and in leaving it as a question of fact to the Jury to say whether Messrs. Brydges and Reynolds had authority to make financial arrangements for the Defendants under the evidence.

Third—In not directing the Jury that there was no evidence to sustain an action against the Defendants or money lent to them, as the Plaintiffs opened their cause of action to be, or to sustain the action on any other of the causes of action alleged in the declaration, the evidence establishing that all the moneys mentioned in, and claimed by, the Bill of the Plaintiff's Particulars, as lent to the Defendants or paid on their account, were moneys paid from the 30th December, 1857, to December, 1858, either on cheques drawn by C. J. Brydges and Thomas Reynolds without any official designation whatever, and headed "Detroit and Milwaukee Acct.," or on the order of Thomas Reynolds alone, as Vice-President of the Detroit and Milwaukee Company, to pay interest coupons on the bonds of that Company; or to retire the promissory notes and other obligations of that Company, of which the said Brydges and Reynolds were from the 22nd Jan'y, 1858, in fact respectively President and Vice-President, and from December, 1858, to the end of December, 1859, either on cheques drawn by C. J. Brydges, as President, and Thomas Reynolds, as Vice-President, of the Detroit and Milwaukee Company on the lithographed or engraved blanks of that Company, countersigned by the Secretary and Accountant thereof, or on the order of the said Thomas Reynolds, as Vice-President of that Company, to pay interest coupons, or to retire notes and other obligations of that Company; and the said learned Judge should have charged the Jury that moneys so paid were not moneys lent to the Defendants or paid to their use.

Fourth—In not directing the Jury that the letter of Messieurs Brydges and Reynolds, of the 16th December, 1858, put in evidence, was a document beyond the scope and authority of those gentlemen to give on behalf of the Defendants, and not binding on the Defendants—that that instrument was void as a guarantee disclosing no consideration, and leaving it in doubt whether past overdraft or future overdraft, or both were intended to be guaranteed; also in not directing the Jury that that letter was in law, on its face, a collateral and not a principal undertaking; and in failing to give the Jury any directions as to the legal effect of that document, and in not directing that it would only extend and apply to the overdraft then existing, and not to advances made thereafter, and that that overdraft having been paid, as appeared by the Plaintiff's Particulars, the liability under that letter was at an end; also in not directing the Jury that, assuming that instrument to have been within the scope of the powers of the said Brydges and Reynolds, it must, by the terms thereof, govern the parties, and over-ride all previous verbal arrangements, and that it in terms showed that the Plaintiffs and the writer of that instrument regarded the Detroit and Milwaukee Company as the principal debtor, and the Defendants as sureties or guarantors only; and the action not having been brought on that letter, must fail.

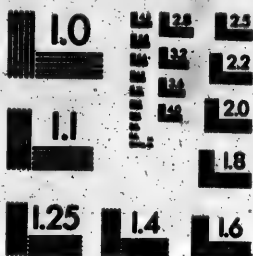
Fifth—In submitting to the Jury questions, the finding on which could not provide the Court with facts sufficient to determine the legal rights and positions of the parties, by applying the law to the case, that the finding on the first question that credit was given to the Defendants, would not, without finding further whether the money was received and used by the Defendants, enable the Court to decide whether the case comes within the authority of *Pim v. The County Council of Ontario*, or the class of cases where corporations are held liable on executed contracts though not under seal; and the question submitted with this question to the Jury, whether the Defendants "reaped the benefit" of the moneys advanced by the Plaintiffs, was altogether too wide under the facts to enable the Court to apply the law, it appearing from the evidence that the completion and efficient working of the Detroit and Milwaukee Railway benefitted the Defendants, as it increased their traffic, and rendered the security they held, through their trustees for the moneys advanced by them, more valuable, and so moneys expended towards the above object, the Defendants would reap the benefit of in one sense, but not in a sense to attach legal liability to them on a contract, void for want of a seal, as bringing them within the class of cases above referred to, because the Defendants did not at the time of the expenditure of the money own the works on which it was expended; they only held through trustees, security—for money actually advanced by the Detroit and Milwaukee Company, not embracing the sum claimed by the Plaintiffs; the benefit of the expenditure was thus only incidental and collateral, and not direct, for on payment of the money secured to them they could not retain or hold any lien on the Detroit and Milwaukee Company for the moneys claimed in this action.

Sixth—In not directing the Jury what kind of benefit would be necessary to make the Defendant's liable, and in not expressly directing them that benefits resulting from an increased traffic and better security for the loan of the Defendants to the Detroit and Milwaukee Company would not be the kind of benefit to make them liable; and in leaving it to the Jury, as if such benefit would be sufficient to sustain this action against the Defendants.

Seventh—In not directing the Jury that, assuming the Directors in England had authorized Messrs. Brydges and Reynolds to obtain moneys from the Plaintiffs to be used on the Detroit and Milwaukee Railway Company's works and business, such authority would be insufficient and void, as being beyond the power of the Directors, not being authorized by the Shareholders, and that the Defendants could not be bound thereby; and in not directing that the expenditure of money by the Defendants on the Detroit and Milwaukee Railway was a matter beyond the scope and power of the Defendants, except to an extent authorized by a vote of the Shareholders, and so illegal; and the lending of money by the Plaintiffs to the Defendants, or to their officers, for this purpose, was illegal, and could not, if actually received by the Defendants be recovered by the lender; and in not directing that the power of the Defendants was simply to use their funds, not to borrow, for the

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purpose of providing funds for the Detroit and Milwaukee Railway; and in not directing that the Defendants could only borrow upon their bonds or other instrument under seal, and only for the purposes of their own Railway.

And which said reception of improper evidence was as follows:—

1st. In allowing the minutes of the Plaintiff's Board of Directors, on the application of Messieurs Brydges and Reynolds for a credit of £100,000 to be read—that application having been in writing, the interpretation put on it by the Plaintiffs could not be material; and the minutes of their proceedings, not communicated in terms to the Defendants, could in no manner be evidence for the Plaintiffs against the Defendants, and should not have been received.

2nd. In receiving the statement of Directors of the Plaintiff's Board, as to what Mr. Ross, the Plaintiff's Cashier, said as to what had taken place between him and Mr. Reynolds, at the Rossin House, Toronto, when they arranged for opening the account, the subject of this action.

3rd. In allowing documents to be put in evidence, as copies of the proceedings of the Defendant's London Board of Directors, without its appearing that such documents were in fact copies of the original proceedings—the only evidence of their being copies, or that there ever were such documents, being that of the Defendant's Secretary, that the said copies were sent to this country by the Officers of the Company in England, as such copies, but whether they were copies or not he did not know.

4th. In allowing to be received in evidence certain charges made by a Committee of the Shareholders of the Great Western Railway Company against the Directors of the Company and the management of its affairs, embracing, among other matters, its relation with the Detroit and Milwaukee Railway Company, and the reply of the Directors thereto, and a letter of Mr. Brydges on the same subject.

5th. And in allowing to be received as evidence a certain writing, known as a Bank Statement, made by the Manager of the Branch Bank, at Hamilton, for transmission to the Head Office of the Plaintiffs, shewing how the Plaintiffs had made certain entries in such Statement of the Detroit and Milwaukee Railway Company's Account.

And that, in the meantime, all further proceedings be stayed.

Defendants
their own

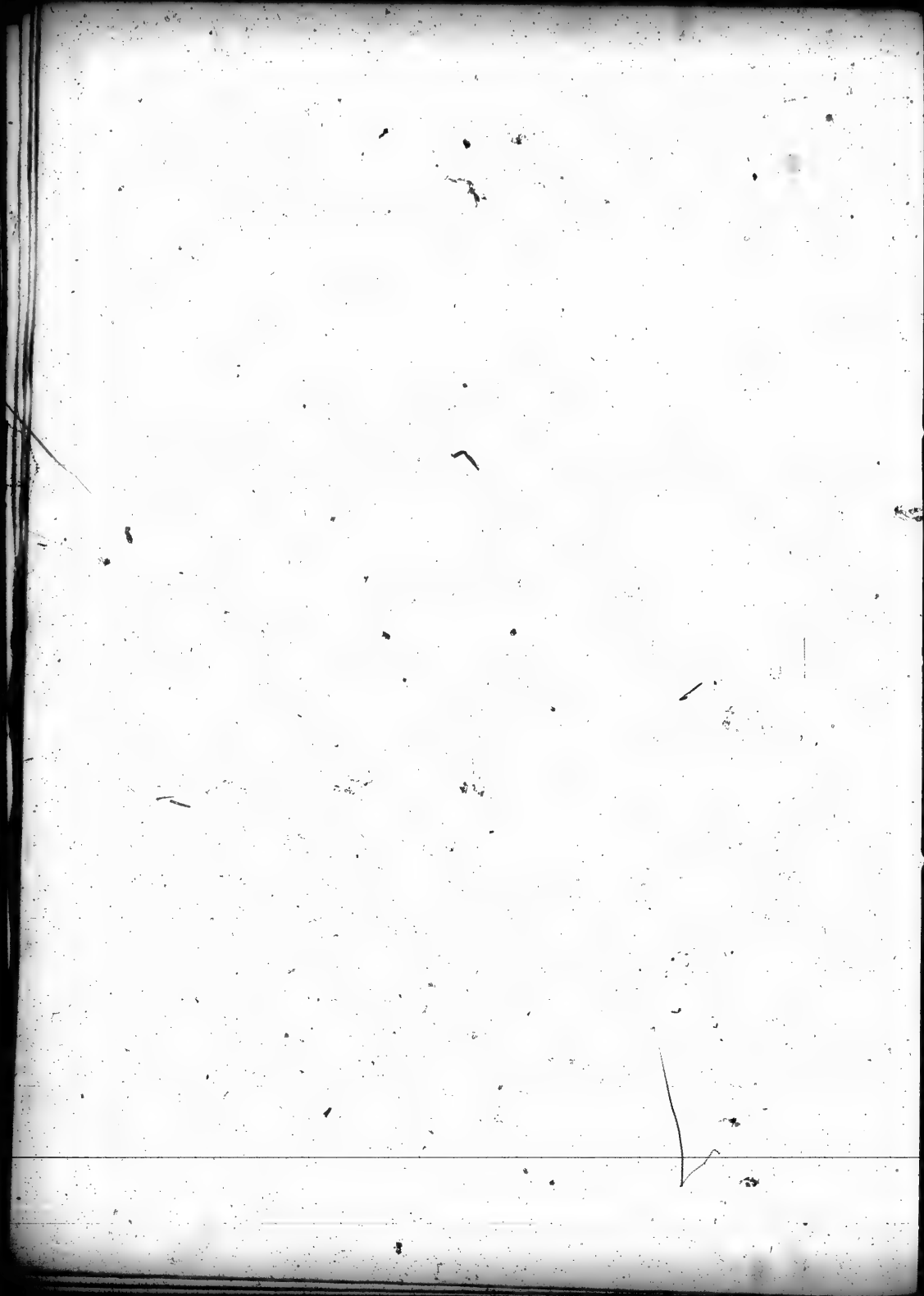
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THE COMMERCIAL BANK OF CANADA

vs.

THE GREAT WESTERN RAILWAY COMPANY.

APPENDIX.

(1.)

RESOLUTION passed at a General Meeting of the Proprietors of the Great Western Railway Company, held in London, England, on the 8th October, 1857, and at the Company's Offices in Hamilton, Upper Canada, on Monday, the 2nd November, 1857. Filed by
Plaintiffs.

"That the Directors be authorized to advance to the Detroit and Milwaukee Railway Company such an amount, not exceeding £150,000 sterling, as may be necessary to ensure the completion of the Railway across Michigan, in connection with the Great Western Railway of Canada; such advance being made as a temporary loan, and on sufficient security; the expenditure of the same being subject to the control of the Great Western Railway Company."

(2.)

RESOLUTION passed at a General Meeting of the Proprietors of the Great Western Railway Company, held in London, England, on the 7th October, 1858, and at the Company's Offices in Hamilton, Upper Canada, on Tuesday, the 2nd November, 1858. Filed by
Plaintiffs.

"That the Directors be authorised to advance to the Detroit and Milwaukee Railway Company a further sum of money, not exceeding £150,000 sterling, to be expended by and under the control of the Great Western Railway Board of Directors."

B.

(3.)

Filed by
Plaintiff

EXTRACT from Report of the Directors of the Great Western Railway Company of Canada, submitted to the General Meeting of Shareholders, held in London, England, on 7th October, 1858, and in Hamilton, Upper Canada, on 2nd November, 1858.

"The advance of \$750,000, or £150,000 sterling, authorized by the proprietors in October, 1857, to secure the opening of the Detroit and Milwaukee Railway, has not been quite expended, but the entire line was opened through to Lake Michigan on the 6th September, 1858. Considerable progress has been made towards relieving that Company from its financial difficulties. The local traffic, although falling short of our anticipations, owing to the great depression of business, promises well. No through traffic of importance has yet been carried, but now that the line is opened throughout, your Directors believe that it will soon secure a remunerative and increasing traffic which will materially benefit the receipts of the Great Western Railway. The providing of proper station and terminal accommodation and rolling stock, the ballasting, fencing and finishing of the line, and the payment of the deferred claims on the Detroit and Milwaukee Company, must now, as stated in the last report be provided for. Further assistance from this Company will be necessary for these purposes; and, after full consideration of the value of the connexion to the Great Western Railway, as likely largely to add to the amount of its through traffic, the Directors have decided on recommending the Shareholders to authorize a further loan of £100,000 sterling, on terms similar to those of the former loan."

"From the programme furnished by our representatives in Canada of the mode in which they purposed carrying out the views of the Proprietors in making the former advance, the Directors hoped it might not have been necessary, at this time at least, to ask for the present advance; but the pressure of the times injuriously affected the receipts of the Detroit and Milwaukee Line during the last six or eight months, and resources from revenue, fairly calculated on to be applied in finishing and stocking the line, were consequently greatly diminished. However, the Directors are happy in being able to state that all difficulties have been surmounted by the energy and exertions of the Executive in Canada; and the entire line, as already stated, was opened throughout to Lake Michigan on the 6th September last, thus realizing, almost to a day, the promise held out in the last Report, and bringing this line into immediate communication with upwards of 1,800 miles of railway centering in Milwaukee."

"Recent accounts have shewn a marked progress in the Detroit and Milwaukee traffic receipts, which augur well for the future; and the Directors, after carefully considering its financial position, and the prospect of the advantage which the Great Western Railway must speedily derive from the connexion, now, since the line has been opened throughout, have no hesitation in proposing the adoption of the course recommended above."

"Although in such transactions pecuniary gain, in interest, on the money so advanced, should never be the motive of action, yet your Directors have been careful to secure a corresponding rate to the advantage conferred on the Detroit and Milwaukee Company in making such advances."

"The total cost of the Detroit and Milwaukee Railway, when finished, with a fair amount of rolling stock, will not be more than \$43,000 per mile, or £8,600 sterling, and, supposing the traffic before the end of another year to amount to £24 per mile a week—our present estimate—this Railway should yield upwards of 6 per cent. on its share capital, after paying interest on the whole of its bonded debt."

(4.)

RESOLUTION passed at a General Meeting of the Proprietors of the Great Western Railway Company, held at the Company's Offices in Hamilton, Upper Canada, on Friday, the 17th May, 1861:—

Filed by
Plaintiffs.

"It was resolved, referring to the arrangements necessary to be made in consequence of the foreclosures of the the Mortgages held by the Company on the Detroit and Milwaukee Railway.

Resolved—"That the Loan of £250,000 sterling, with accrued interest, remain the Third Mortgage upon the Detroit and Milwaukee Railway, carrying cumulative interest at the rate of ten per cent. per annum, as agreed when the loans were first granted."

MINUTES OF MEETINGS
OF
ENGLISH AND CANADIAN BOARDS OF DIRECTORS
OF
GREAT WESTERN RAILWAY COMPANY.

CANADIAN BOARD, 21st October, 1853.

(5.)

Filed by
Plaintiffs.

PRESENT :

C. J. BRYDGES, Esq., in the Chair.
I. BUCHANAN, Esq.,
W. P. MACLAREN, Esq.,

R. JUSON, Esq.,
H. MCKINSTRY, Esq.,
G. S. TIFFANY, Esq.

72

OAKLAND AND OTTAWA RAILWAY.

Resolved—"That this Board view with great satisfaction the spirited progress of the Oakland and Ottawa Line from Detroit west; viewing it as a decidedly sound enterprise, the being carried out of which was evidently only a matter of time, and the construction of which has always been looked to as a most important outlet of our travel and traffic at the western end of this Railway."

(6.)

Filed by
Plaintiffs.

CANADIAN BOARD, 17th November, 1853.

PRESENT :

ROBERT W. HARRIS, Esq., in the Chair.

C. J. BRYDGES, Esq.,
WM. P. McLAREN, Esq.,
R. JUSON, Esq.,

G. B. TIFFANY, Esq.,
HENRY McKINSTRY, Esq.,
I. BUCHANAN, Esq.

74.

OAKLAND AND OTTAWA RAILWAY.

H. N. WALKER, Esq., President of the Oakland and Ottawa Railway, had an interview with the Board in relation to that line, and explained the position and prospects of that Company.

75.

Resolved—"That this Board having frequently had under its consideration the great importance of securing, at an early day, a Railway connection between the city of Detroit and Grand Haven, on Lake Michigan, opposite to Milwaukee, the commercial capital of the State of Wisconsin, whereby the extensive commerce of that State, as well as that of one of the most fertile regions of the State of Michigan, situate on the valley of the Grand River and its numerous branches, may be drawn over the line of our Railway.

76.

Resolved—"That in the opinion of this Board, the line selected by the Oakland and Ottawa Railway Company, between those points, is calculated to secure this very desirable object; and that this Board views, with lively interest, the efforts being made under the present efficient and energetic management of that Company to secure the early completion of their line.

77.

Resolved—"That in addition to the immense value of the Oakland and Ottawa Line as an outlet to, and a feeder to the Great Western Railway, this Board is of opinion, in view of the large through, as well as way traffic which the former must command, that it will prove a most profitable investment, more particularly if the line do not cost more than the estimate of \$25,000 a mile; and they have great pleasure in recommending it to the favourable notice of their friends in England, and to capitalists generally.

(7.)

Filed by
Plaintiffs.

CANADIAN BOARD, 30th March, 1855.

PRESENT :

R. W. HARRIS, PRESIDENT, in the Chair.

W. LONGSDEN, VICE-PRESIDENT,
R. JUSON,
H. McKINSTRY,

C. J. BRYDGES, MANAGING DIRECTOR,
W. DICKSON,
COL. GOURLAY,

THE MAYOR OF LONDON.

DETROIT AND MILWAUKEE RAILWAY.

ADOPTING the recommendation of a meeting of the Directors on the 16th instant, when a deputation from the Detroit and Milwaukee Railway Company, consisting of H. A. Walker, President, H. Ledyard, Vice-President, C. C. Troubridge, Treasurer, R. Higham, Engineer, H. P. Baldwin, E. A. Brush, N. P. Stewart, and B. C. Whitmore, members of the Detroit and Milwaukee Board, attended the meeting and explained that the Oakland and Ottawa Railway Company had been amalgamated with the Detroit and Pontiac Railway, under the title of "The Detroit and Milwaukee Railway Company." The deputation entered fully into the present position and future prospects of the Detroit and Milwaukee Company, and reference was made to the Resolutions passed by this Board on the 17th of November, 1853; it was—

Resolved—"That this Board—looking at the fact that the Detroit and Pontiac Railway has been for some time in operation, and earning satisfactory dividends, and that the extension of that line to Grand Haven, opposite Milwaukee, will open up, as tributary to the Great Western Railway, a very rich and important district of country, besides drawing a large through traffic from Wisconsin and the West—now confirm the Resolutions passed on the 17th of November, 1853, and repeat their expression of confidence in the Detroit and Milwaukee Railway Company, proving a very valuable tributary to this Railway, and as such, deserving the support and countenance of all parties interested in the Great Western Railway, and the Board are strengthened in this opinion by their experience of the traffic which has been taken on the Great Western Railway since it opened, and their experience thus acquired of the great business which flows from the American frontier on the Detroit River."

CANADIAN BOARD, 20th July, 1855.

(8.)

Filed by
Plaintiffs.

PRESENT :

R. W. HARRIS, **PRESIDENT**, in the Chair.

C. J. BRYDGES, **MANAGING DIRECTOR**,
H. MCKINSTRY,

COL. GOURLAY,
THE MAYOR OF HAMILTON,
THE MAYOR OF LONDON.

DETROIT AND MILWAUKEE RAILWAY.

THE Managing Director reported that he had been applied to by the President and Directors of the Detroit and Milwaukee Railway Company to obtain for them some assistance from this Company to enable them to complete their Line.

Resolved—"That the Managing Director be requested to visit the line of the Detroit and Milwaukee Railway, and after carefully enquiring into the present position and future prospects of the line, to make report thereon in writing to this Board."

(9.)

Filed by
Plaintiffs.

CANADIAN BOARD, 3rd of August, 1855.

PRESENT:

R. W. HARRIS, PRESIDENT, in the Chair.

C. J. BRYDGES, MANAGING DIRECTOR.
COL. GOURLAY,H. MCKINSTRY,
THE MAYOR OF HAMILTON.

745

DETROIT AND MILWAUKEE RAILWAY MANAGING DIRECTOR'S
REPORT.

THE Report of the Managing Director in relation to the Detroit and Milwaukee Railway Company, was read; and it was—

Resolved—"That a copy of this Report be forwarded to the London Directors, with a recommendation that they afford any assistance they can to the Detroit and Milwaukee Railway Company," and

"That they also be informed of the strong opinion which this Board entertains of the great importance of proceeding with the Sarnia Line, so as to ensure its completion at an early date."

(10.)

Filed by
Plaintiffs.

ENGLISH BOARD, February 26th, 1856.

PRESENT:

J. B. SMITH, Esq., M.P., in the Chair.

ROBERT GILL, Esq.,
PETER BUCHANAN, Esq.,ALEXANDER BEATTIE, Esq.,
RICHARD JUSON, Esq.

508

DETROIT AND MILWAUKEE COMPANY.

THE Heads of a Traffic Agreement with the Detroit and Milwaukee Railway having been prepared, pursuant to Board Minute, No. 585, and having been signed by Mr. H. N. Walker, President of the Detroit and Milwaukee Railway, on behalf of the Company, in double original; it was—

Resolved—"That Mr. J. B. Smith, Chairman of this Board, be empowered to sign the same on behalf of the English Board of the Great Western of Canada Railway, and it was signed accordingly, and one original was delivered to Mr. H. N. Walker."

CANADIAN BOARD, 28th March, 1856.

Filed by
Plaintiffs

PRESENT :

R. W. HARRIS, PRESIDENT, in the Chair.

J. S. RADCLIFF, VICE-PRESIDENT.
H. MCKINSTRY,
W. DICKSON,C. J. BRIDGES, MANAGING DIRECTOR,
COL. GOURLAY,
THE MAYOR OF HAMILTON,
THE WARDEN OF MIDDLESEX.

923

DETROIT AND MILWAUKEE.

THE Heads of an Agreement entered into between the Directors of this Company in England and the Directors of the Detroit and Milwaukee Railroad Company, to establish a Working Traffic Arrangement between the two Companies, upon conditions and for reasons therein stated, having been referred to the Company's Solicitor by the Managing Committee, on the 26th instant, to draw up an Agreement, embodying those conditions, the following Agreement, prepared in conformity therewith, was submitted:—

An Agreement made the 28th day of March, A.D. 1856, between the Detroit and Milwaukee Railway Company, (of the State of Michigan, one of the United States of America,) of the one part, and the Great Western Railway Company, (of Canada,) of the other part:—

"Whereas an agreement bearing date the 26th day of February, A. D. 1856, has been made and signed by and between John Benjamin Smith of the City of London in England, Esquire, Chairman of the English Board of Directors of the said Great Western Railway Company, acting for and on behalf of the said Great Western Railway Company, and Henry N. Walker of the City of Detroit in the State of Michigan, one of the United States of America, Esquire, President of the said Detroit and Milwaukee Railway Company, acting for and on behalf of the said Detroit and Milwaukee Railway Company, which agreement is in the words following:

"Heads of an agreement proposed to be entered into between the Great Western Railway Company and the Detroit and Milwaukee Railway Company, which agreement shall be formally entered into and extended into a binding traffic arrangement under the corporate seal of both Companies as soon as conveniently may be, and to carry out in good faith the following objects:—

"First.—The object of the Detroit and Milwaukee Railway Company is to negotiate among the Shareholders of the Great Western Railway or otherwise one million dollars of Bonds in pursuance of the prospectus lodged in the Company's office, and the covenants of the agreement to be entered into are contingent upon at least seven hundred and fifty thousand dollars of the said Bonds being negotiated. In such case the Great Western Railway Company shall from time to time retain sufficient of the monies coming into their hands by virtue of the Traffic resulting from the said running agreement to pay the interest on the said amount of Bonds so negotiated, and the said money shall be held in trust by the Directors of the Great Western Railway Company and faithfully applied to the same annual payment of interest on the said Bonds. But the said Directors shall not in any way be liable or responsible for more than the due application of the monies which may so come into their hands. And for further security of the due payment of the said interest, the said Detroit and Milwaukee Company consent that the Great Western Directors shall retain in their hands and invest at the current

rate of interest on good securities sufficient of the proceeds of the said Bonds so negotiated to cover the first six months interest due and payable to the Bondholders, proper accounts to be rendered to the Detroit and Milwaukee Railway Company.

"*Second.*—All accounts of indebtedness shall be stated and settled as far as practicable once in each month, and all monies as is here provided for paid over or accounted for upon such settlement.

"*Third.*—The two Companies will receive and transport over all or part of their respective lines all passengers and freight of every sort and description upon terms equally favourable as each Company transports passengers or freight of a like description from any source whatever.

"*Fourth.*—The Detroit and Milwaukee Company shall not, during the continuance of this agreement, viz., until the said Bonds are redeemed in any way directly or indirectly, countenance or promote any line of Railway, or be interested in any line of steamboats or sailing vessels intended or resulting in diverting the traffic, wholly or partially, from any part of the said Great Western Railway.

"*Fifth.*—The Detroit and Milwaukee Company intend to secure to the Great Western Railway, by virtue of this agreement, so far as it can control the same, the sole and exclusive monopoly of transport over the Great Western Railway, of all passengers and freight brought over its line going East, and therefore will not enter into any traffic or ticketing or checking arrangements with any other Railway or Steamboat Company, which is or which may be hereafter in operation and intended to divert the traffic from the Great Western Company. No runners or agents, or placards or advertisements, to be permitted by either Company to the detriment of the other.

"*Sixth.*—This agreement being made in good faith, any additional clauses of a nature to carry out the intention, shall be admitted, and provision made for arbitration, and for damages, in case of infraction or violation: And whereas the terms of the said agreement have been approved and adopted by the Directors of the said respective Companies. Now this agreement witnesseth that the said Detroit and Milwaukee Railway Company for themselves, their successors, and assigns, covenant with the said Great Western Railway Company, their successors and assigns, that when and so soon as seven hundred and fifty thousand dollars of the Bonds of the said Detroit and Milwaukee Railway Company shall have been negotiated, as contemplated by the above-recited agreement, they, the said Detroit and Milwaukee Railway Company, shall and will enter into a perfect and formal agreement, executed by and under the corporate seal of the Detroit and Milwaukee Railway Company, with all necessary clauses and covenants therein contained for the better and more effectually and perfectly carrying into effect the objects and intent of the above-recited agreement, in all things to be in accordance therewith, done, and observed, by and on behalf of the said Detroit and Milwaukee Railway Company; and that, until such further and perfect agreement shall have been so executed, the object, purport, terms, clauses, and intent of the above-recited agreement, shall and will, well, truly, and faithfully be observed, performed, fulfilled and kept by and on behalf of the said Detroit and Milwaukee Railway Company, their successors and assigns, and the said Great Western Railway Company, for themselves, their successors and assigns, covenant with the said Detroit and Milwaukee Railway Company, their successors and assigns, that they, the said Great Western Railway Company, shall and will, by and under the corporate seal of the said Great Western Railway Company, make and execute such more perfect and formal agreement, so as aforesaid to be made and executed by the said Detroit and Milwaukee Railway Company, with all necessary clauses and covenants therein to be contained, upon the part of the said Great Western Railway Company, for the better and more effectually, and perfectly carrying into effect the object and intent of the said above firstly recited agreement in all things to be in accordance therewith, done, and observed, on behalf of the said Great Western Railway Company; and that until such further and perfect agreement shall have been so mutually executed by the said respective Companies, the object, purport, terms, clauses, and intent of the above firstly recited agreement shall be well, truly, and faithfully observed, performed, fulfilled, and kept by and on behalf of the said Great Western Railway Company.

"In witness whereof the said respective Companies have caused these presents to be executed by and under the corporate seal of the said respective Companies in the manner required by the law as applicable to such respective Companies, the day and year first above written.

"Signed, sealed, and delivered, by the said Detroit and Milwaukee
Railway Company, at the City of Detroit, in the State of Michigan, in the presence of } [L. S.]

"Signed, sealed, and delivered, by the said Great Western Railway
Company, at the City of Hamilton, in the Province of Canada, in the presence of } [L. S.]

The foregoing Agreement having been read, was approved, and the seal of the Company ordered to be affixed thereto in duplicate, and forwarded to Detroit, for execution by the Detroit and Milwaukee Company.

ENGLISH BOARD, *July 17th, 1856.*

(12 .)

Filed by
Plaintiffs.

PRESENT :

J. B. SMITH, Esq., in the Chair.

ROBERT GILL, Esq.,

ALEXANDER BEATTIE, Esq.

850

DETROIT AND MILWAUKEE RAILWAY.

READ—

Letter from Mr. H. N. Walker, President of the Detroit and Milwaukee Railway, dated July 10, stating that all doubt would now be removed as to the ultimate completion of that line, as Mr. George Wythes had entered into a contract for the execution of the remaining 75 miles to Grand Haven, the completion of which he guaranteed on or before August 1st, 1857.

Also, a letter from Mr. Wythes, dated July 16, confirming this contract for the sum of £500,000, payment to be made one-half in cash, and the other half in the shares of that Company; and further stating his willingness to take £50,000 in the proposed new issue of bonds of Detroit and Milwaukee Company.

Also, a letter from Mr. H. N. Walker, and Mr. C. C. Trowbridge, Secretary of the Detroit and Milwaukee Company, dated July 18, stating that a Company had been formed in Michigan, pursuant to the laws of that State, for the construction of the line from Port Huron, opposite to Port Sarnia, to intersect the Detroit and Milwaukee Line at Corunna or Owasso; and that the contract for constructing this line had been let to Mr. N. P. Stewart, one of the Directors of the Detroit and Milwaukee Railway; and that such organization

c

and control were made in the intention that this line should run in co-operation with the Detroit and Milwaukee and the Great Western Railway Lines.

Also, a letter from Mr. N. P. Stewart, dated July, confirming the above.

Mr. H. N. Walker and Mr. C. C. Trowbridge had an interview with the Board.

Referring to English Board Minutes, Nos. 575, 585 and 593—

857.

Resolved—"That under these circumstances the Board will be justified in recommending to the Great Western Railway of Canada Shareholders the bonds of the Detroit and Milwaukee Company yet to be disposed of, for the purpose of carrying out the above contract with Mr. Wythes, say to the extent of \$1,000,000 or £200,000 sterling, such bonds to bear interest at the rate of 7 per cent. per annum, and to be convertible into stock of that Company at the option of the holder up to May, 1885, and redeemable at par in May, 1875, to be issued at the price and on the terms to be set forth in a prospectus to be prepared by Mr. Walker, the President of the Company, and to be approved by this Company; and that the necessary steps be taken to perfect the working agreement previously made with the Detroit and Milwaukee Company."

It was referred to Mr. J. B. Smith to settle and carry out the other necessary arrangements.

(13.)

Filed by
Plaintiffs.

ENGLISH BOARD, July 22nd, 1856.

PRESENT :

ROBERT GILL, Esq., in the Chair.

ALEXANDER BEATTIE, Esq.,

J. B. SMITH, Esq.

868.

DETROIT AND MILWAUKEE RAILWAY.

A DRAFT of the Prospectus prepared by Mr. Walker, relative to the proposed issue of \$1,250,000 of seven per cent. convertible Detroit and Milwaukee Bonds, having been submitted to the Board as settled by Mr. J. B. Smith, pursuant to the Minute, No. 857, the price of the \$1000 bond having been fixed at \$168.15.

"*Resolved*—That a circular be issued from this office to the Great Western Railway shareholders, including Mr. Walker's Prospectus; and offering these Bonds, in the first instance, to them; and that the preliminary agreement entered into in London, between Mr. J. B. Smith, on behalf of the English Board of Directors on February 26th, 1856, as per Board Minute No. 593, and also the subsequent agreement entered into under the respective corporate seals of both companies on March 28, 1856, as per Canadian Board Minute No. 923, be further extended, so as to covenant that in consideration of the issue of said Bonds being extended from \$1,000,000 to \$1,250,000, so the money to be retained in the hands of the Directors from the traffic arrangements in the said agreements set forth, shall be sufficient to meet the interest on such increased issue. Said agreement to be acted upon, and to take effect as soon as \$1,000,000 of Bonds shall have been subscribed for."

Before the above mentioned circulars are issued, the Secretary to be satisfied that the Contract with Mr. Wythes, to complete the Detroit and Milwaukee Railway, is executed by both parties, and that Mr. H. N. Walker has legal power to treat on behalf of the Detroit and Milwaukee Board of Directors.

864.

ANNEXED is a copy of the Circular referred to:—

(Copy.)

"THE GREAT WESTERN RAILWAY OF CANADA,
29 AUSTIN FRIARS,
LONDON, July 22nd, 1856.

"The Directors of this Company having, in February last, entered into a mutually advantageous traffic arrangement with the Directors of the Detroit and Milwaukee Railway Company, Mr. H. N. Walker, the President of that Company was furnished with a list of the Shareholders of the Great Western Railway of Canada, for the purpose of enabling him to bring under their consideration his Prospectus of the Detroit and Milwaukee Railway.

"Owing to a variety of circumstances which operated at that period, the offer made to our Shareholders of the mortgage-bonds of the Detroit and Milwaukee Railway Company was only partially accepted; and it was therefore thought advisable to withdraw them.

"Since that date an additional section of 28 miles of the Detroit and Milwaukee Railway has been opened making a total of 78 miles, the traffic on which confirms the favourable opinion previously entertained by our Board of the value of the line, thirty-two miles more are in a forward state; and, as will be seen by the enclosed Prospectus, a contract has been entered into with Mr. George Wythes, of Reigate, Surrey, for the completion of the remaining 75 miles.

"To enable the Detroit and Milwaukee Company to fulfil this contract, it becomes necessary to raise about £250,000 in Cash; and they propose to dispose of this amount of their seven per cent. mortgage-bonds, redeemable in May, 1875, with the option of conversion into shares of that Company until May, 1865.

"Offers have been already made to the extent of £50,000 of these bonds; and the balance is offered, in the first instance, to the shareholders of the Great Western Railway of Canada.

"The proprietors of this Company will be able to estimate the advantage of a connection with the Detroit and Milwaukee Railway, and the importance of its early completion, when it is considered that the amount of through traffic from that line, expected to pass over the Great Western Railway of Canada, is estimated to be equal to that received from the Michigan Central Railway. The Directors, therefore, feel that as there is now a substantial guarantee that the completion of the line will be insured by the time and for the amount specified under the contract with Mr. Wythes, they may recommend the bonds of the Detroit and Milwaukee Railway to the shareholders of the Great Western Railway of Canada, and applications to the extent of £200,000 made in the form annexed, will be received until the 6th of August next.

"By order of the Board.

(Signed)

"BRACKSTONE BAKER,

"Secretary."

(14.)

Filed by
Plaintiff.

ENGLISH BOARD, August 8th, 1856.

PRESENT:

ROBERT GILL, Esq., in the Chair.

ALEXANDER BEATTIE, Esq.

901

DETROIT AND MILWAUKEE AGREEMENT.

A TRAFFIC Agreement amended from that entered into by the English Board and Mr. H. N. Walker, on behalf of the Detroit and Milwaukee Company, on February 26, 1856, as per Board Minute, No. 593, further extended by sealed agreement entered into in Canada, on March 29, 1856, as per Canadian Board Minute, No. 923, was now laid before the Board, reciting the covenants of the before mentioned Agreement, and providing that the monies be from time to time retained in the hands of the Great Western Directors shall be sufficient to cover the interest on the extended issue of \$1,250,000 of said Bonds, which amended Agreement was contemplated by English Board Minute, No. 863.

Resolved—"That Mr. Robert Gill, Chairman of this meeting, do sign the Agreement on behalf of the Board of the Great Western Railway Company, and that a copy of the same Agreement, and of the Agreement dated 21st July, 1856, between Mr. H. N. Walker and Mr. George Wythes, for the completion of the Detroit and Milwaukee Railway, and also a copy of the Power of Attorney, dated June 11th, 1856, whereby the Detroit and Milwaukee Company conferred upon Mr. H. N. Walker the power to enter into such agreement on its behalf, be transmitted to Canada."

The Agreement was signed accordingly, and one original was handed to Mr. H. N. Walker.

(15.)

Filed by
Defendants.

MEETING OF THE ENGLISH BOARD.

12th August, 1856.

PRESENT:

ROBERT GILL, Esq.

907.

DETROIT AND MILWAUKEE.

It was reported that an Account had been opened with the London Joint Stock Bank, termed "Trust Account of Detroit and Milwaukee Bonds," to which sums for deposit and future instalments on these Bonds were to be paid. The Trustees who would hereafter sign cheques on this account were, R. Gill, A. Beattie, and P. Buchanan, Esqrs., or any two of them, and countersigned by the Secretary.

(16.)

ENGLISH BOARD, August 27th, 1856.

Filed by
Plaintiffs.

PRESENT:

ROBERT GILL, Esq., in the Chair.

ALEXANDER BEATTIE, Esq.

943.

DETROIT AND MILWAUKEE BANKING ACCOUNT.

It was reported that owing to some legal objection to the Account opened at the London Joint Stock Bank, as the "Trust Account of Detroit and Milwaukee Bonds," as stated in Minute, No. 907; the Banking Account had been opened in the name of "The Great Western Railway of Canada, 'Detroit and Milwaukee Account,'" and a letter was written to Mr. Pollard, by Messrs. Gill and Beattie, informing him of this, cheques upon which, until further notice, to be signed by themselves and countersigned by the Secretary.

(17.)

ENGLISH BOARD, August 27th, 1856.

Filed by
Plaintiffs.

PRESENT:

ROBERT GILL, Esq., in the Chair.

ALEXANDER BEATTIE, Esq.

946.

DETROIT AND MILWAUKEE BONDS.

REFERRING to Minute No. 937, it was reported that the amount of Detroit and Milwaukee Bonds taken up to date was as follows:

793 Bonds, deposit of £18 15s. per Bond paid	£14,868 15 0
236 " paid up in full	34,650 0 0
9 " first Instalment of £30 paid	270 0 0
	£49,788 15 0

(18.)

CANADIAN BOARD, 29th August, 1856.

PRESENT :

J. S. RADCLIFF, VICE-PRESIDENT, in the Chair.

C. J. BRYDGES, MANAGING DIRECTOR,
COLONEL GOURLAY,H. MCKINSTRY,
THE WARDEN OF MIDDLESEX,

THE MAYOR OF HAMILTON.

1026.

DETROIT AND MILWAUKEE RAILWAY—WYTHES.

Laid on the Table enclosures in Mr. Baker's letter of the 15th August.

Prospectus of the Detroit and Milwaukee Railroad Company for issuing \$1,250,000 in 7 per cent. Bonds in England (in lieu of \$1,000,000 as previously proposed.)

Copy of an Agreement, dated 8th of August, 1856, between R. Gill, on behalf of the Great Western Railway Company, and H. N. Walker, on behalf of the Detroit and Milwaukee Railroad Company, reciting and extending the powers of an agreement, entered into on the 23th of March, for establishing a traffic arrangement between the two Companies, and authorizing the Great Western Company to retain from time to time sufficient of the monies of the Detroit and Milwaukee Company coming into their hands under the traffic arrangement therein referred to, to pay the interest on the \$1,000,000 of 7 per cent Bonds then proposed to be issued, which sum it is now proposed to increase to \$1,250,000.

Circular to the Great Western Shareholders, issued by the English Board in reference thereto, with forms of application for bonds, of letter of allotment, and of banker's receipt.

Copy of a power of attorney from the Detroit and Milwaukee Railroad Company to H. N. Walker, their President, to authorize him to enter into a contract for the execution of part of their line from Owasso to Lake Michigan.

Copy of contract for that work with Mr. G. Wythes, made under the authority of said power of attorney.

JOHN S. RADCLIFF,
Vice-Pres. G. W. R. Co.

CANADIAN BOARD, 13th February, 1857.

(19.)

Filed by
Plaintiffs.

PRESENT :

C. J. BRYDGES, CHAIRMAN, *pro tem.*

R. JUSON,
J. YOUNG,
H. McKINSTRY,
COLONEL GOURLAY,
W. DICKSON,
THE MAYOR OF HAMILTON,

R. CLARK, WARDEN OF MIDDLESEX,
R. GILL, } by their proxy, C. J. BRYDGES.
A. BEATTIE, }
W. GOVEN, } by their proxy, R. JUSON.
ADMIRAL LAWS, }
T. CULLEN, by his proxy, J. YOUNG.

1177.

STEAMERS STEWART—DETROIT AND MILWAUKEE STOCK.

THE Secretary was instructed to proceed to Detroit, and in conformity with the recommendation of the Managing Committee, (Minute No. 871, Feb. 11th,) have the \$180,000 Stock of the Detroit and Milwaukee Railway Company received in purchase of the Steamers Canada and America transferred into the names of John Young and Richard Juson and Charles-John Brydges, in trust for the Company.

MEETING OF THE FINANCE COMMITTEE IN CANADA, ON
THURSDAY, July 30th, 1857.

(20.)

Filed by
Plaintiffs.

PRESENT :

J. YOUNG, VICE-PRESIDENT, Chairman.

C. J. BRYDGES, MANAGING DIRECTOR,
F. W. GATES.

R. JUSON,

724

BANK OF UPPER CANADA—COMMERCIAL BANK.

THE Managing Director reported that the following letter, addressed to him by the Cashier of the Bank of Upper Canada, dated 15th instant, had been delivered on the 18th inst., after the Bank had been afforded an opportunity of reflecting on the consequences of the letter.

"BANK OF UPPER CANADA, *Toronto*, 15th July, 1857.

"MY DEAR SIR,

"The Board being dissatisfied with your late reply to Mr. Stow—that you had no authority to draw upon

your Board in London to cover your account, and also that you could not tell when it would be paid.' It has been determined to take legal proceedings against the Great Western Railway Company for the recovery of the debt due by them to this Bank. I therefore beg leave to give you this notice, it being the only course left to this Bank to pursue.

"I remain, yours truly,

(Signed)

"THOS. G. RIDOUT, CASHIER.

"C. J. BRYDGES, Esq.,

"Managing Director,

"G. W. R. Co., Hamilton."

He also reported that on the 23rd inst. he had seen Mr. Ridout in Toronto, who had expressed his regret at the misunderstanding that had arisen, and stated his expectation that, after the explanations given, the Bank Board would withdraw the above offensive letter, and make satisfactory arrangements for the future. Subsequently, Mr. Ridout instructed the Cashier in Hamilton to inform the Company that the Bank demanded a Bond under seal, payable in three months, for the amount now overdrawn. After consultation with the members of the Finance Committee, the following communication was made to the Bank of Upper Canada:

"The Company will agree to give the Bank of Upper Canada a Bond under seal, due in three months, dated 1st August, 1857, for the amount overdrawn on the 31st July, 1857, adding interest on the amount for the three months, and allowing $\frac{1}{2}$ per cent for Agency, on the following condition:—that the Company be allowed, if they want it, to overdraw their account during the six months from the 1st August, 1857, to the extent of £50,000 currency, such advance being gradual as the necessity for it arises."

This morning (30th July) the following reply, by Telegraph, was received from Mr. Ridout:

"TORONTO, TO C. J. BRYDGES, July 30th.

"The Board yesterday determined not to make any further advances, but will take a note at three months for your present balance, as before offered.

"T. G. RIDOUT."

Resolved—"That the reply received from Mr. Ridout leaves the Board no alternative but to close the account with the Bank of Upper Canada.

"That no cheques beyond those now out be drawn upon that Bank, and no further deposits made.

"That an account be opened with the Commercial Bank of Canada.

"That the Managing Director be instructed to make the necessary arrangements with the Commercial Bank, on the basis that the Company is to have authority to overdraw its account to the extent of £50,000, if and when required.

"That a Bond, under the seal of the Company, payable in three months from date, be given to the Bank of Upper Canada, on 1st August, for the amount due on the 31st July, 1857, and interest on the same for the three months.

"That the attention of the London Board be specially called to this matter, and that this Board will have no alternative, in order to pay the Bond demanded by the Bank of Upper Canada, but to draw for the amount (about £70,000 currency) upon the English Board, not later than 31st October, 1857."

MEETING OF CANADIAN BOARD, ON FRIDAY, 31st July, 1857.

(21.)

PRESENT:

Filed by
Plaintiffs.

JOHN YOUNG, VICE-PRESIDENT, in the Chair.

C. J. DRYDGES, MANAGING DIRECTOR.
R. JUSON,
H. C. R. BECHER,
F. W. GATES,
WILLIAM DICKSON,

R. GILL, } by their proxies,
H. BEATTIE, } C. J. DRYDGES.
W. GOVAN, } by their proxies,
ADMIRAL LAWS, } R. JUSON.
T. CULLEN, by his proxy, J. YOUNG.

1277.

COMMERCIAL BANK—BANK OF UPPER CANADA.

THE Managing Director reported, that in pursuance of the Resolution of the Finance Committee of the 30th July, he had seen Mr. Park, Manager of the Commercial Bank, who had agreed to open an Account with the Company on the terms proposed, and to advance £50,000 when and as the Company may require it.

The arrangement made by the Managing Director was approved: it was likewise—

Resolved—"That a Bond for the amount found due to the Bank of Upper Canada be signed and sealed by the Vice-President, payable in three months from the 1st of August."

ENGLISH BOARD, August 4th, 1857.

(22.)

PRESENT:

Filed by
Plaintiffs.

ROBERT GILL, Esq., PRESIDENT, in the Chair.

THOMAS CULLEN, Esq.

ADMIRAL J. M. LAWS.

1551.

REPORT ON THE DETROIT AND MILWAUKEE RAILWAY.

MR. H. N. Walker attended the Board, and it was reported, that looking at the large stake held in the Detroit and Milwaukee Company by this Company, as well as the interest held in its Bonds and Shares by the Great Western Shareholders, on the recommendation of the Board, it appeared highly proper that the Board should be furnished with an independent and official report on the progress and character of the works, the period of their completion throughout, the probable sources of local and through traffic, the arrangements contemplated for Water-communication with the opposite coast of Lake Michigan, and generally on the prospects and position of that Road, as well as respecting the grant of 53,000 acres of Land; it was therefore—

D

Resolved—"That Mr. Thomas Mathias, at present in Toronto, and being in every way qualified, be commissioned by the Detroit and Milwaukee Railway Company to make a personal inspection, and to report to this Board officially on the above points."

To this Mr. H. N. Walker assented.

(33.)

Filed by
Plaintiffs.

MEETING OF CANADIAN BOARD, ON FRIDAY, August, 14th, 1857.

PRESENT:

JOHN YOUNG, Esq., VICE-PRESIDENT, in the Chair.
C. J. BRYDGES, MANAGING DIRECTOR, R. JUSON,
F. W. GATES.

1294.

ROSS-COMMERCIAL BANK.

Read the following letter from Mr. C. S. Ross, Cashier of the Commercial Bank of Canada, of the 11th August:—

"COMMERCIAL BANK OF CANADA,
"KINGSTON, 11th August, 1857.

"C. J. BRYDGES, Esq.,
"Managing Director, Great Western Railway.

"Sir,

"Referring to our recent interview and preliminary arrangement for the Bank account of the Great Western Railway Company, at our Hamilton Branch, I beg to inform you that the matter has been submitted to our Board, and that the Directors have sanctioned the following agreement on the part of this Bank.

"The Great Western Railway Company will deposit with the Hamilton Branch of this Bank their total receipts of Cash and Cash items (less American Bank Notes, and funds collected at Buffalo and Detroit, as hereafter referred to).

"The Bank will receive all current Canada Bank Notes, and such Cheques and Drafts at sight, at three days, as are payable at the places where the Bank has offices, and in the United States generally at par. Where the Bank incurs charge of commission in collecting cheques and drafts, payable at points where we have no office, the Company will reimburse to the Bank the amount of commission so paid, should it be found to reach any considerable sum, when compared with the total receipts; if not, then no charge will be made. If charge is made, entry will only be made once in each half-year for sake of convenience, and, meantime, account of the items will be kept.

"Receipts of the Company at New York will be transferred to Hamilton, by their agent, depositing same in Merchants' Bank, New York, to credit of this Bank; and entries will be made at Hamilton by the Company depositing certificate of deposit as so much cash. Receipts at Albany, say balances accruing to Great Western Railway Company, from New York Central Railroad, will be deposited by New York Central Railroad, to credit of the Bank, with Bank of the Interior, Albany; and certificate of deposit will be transmitted to Hamilton for entry as before. I saw Mr. Pruyn about this matter; and he expressed his entire willingness to remit in this way,—desiring only that you should instruct him to do so. Please address him, and your agent at New York, in conformity.

"The Great Western Railway Company will use funds in Bank, at Buffalo and Detroit, for payments required to be made at these places—resulting balances not required for such local use, to be drawn for through the Bank.

"The Bank will honor, at par, cheques of the Company on Hamilton Branch, at all its offices—it being understood that no large cheques (say over £1000) will be presented at the smaller agencies, where no great supply of notes is held.

"The Bank will furnish drafts on New York for such payments as the Company may have to make in the United States at par, when such payments cannot be made by cheque.

"The Great Western Railway Company, in making payments to employees and others, where cheques are not given to payees, will use the Bank's notes; and generally keep in view, so far as practicable, giving to the Bank the full benefit of circulation on disbursements of the Company.

"In consideration of this, and of the total receipts of the Company, as before stated, the Bank consents to give an overdrawing credit of £50,000 (say fifty thousand pounds currency), it being understood that such overdrawing credit, if used, is for temporary purposes, (say when the receipts of the Company do not meet temporary disbursements), and not as a fixed loan for an indefinite period. The overdraft, however, to be available when required by the Company for ordinary expenditure of whatever nature.

"Interest will be charged on the Daily Balance when at debit; and, for convenience, will be charged once in each six months, at such date as may suit the accounts of the Company.

"Regarding Sterling Exchange, the Bank will take the Bills of the Great Western Railway Company on London at sixty days, at current New York rate of the day for first-class bills. When the Company wants to remit to London, the Bank will furnish their 60 days' Bills at one-half per cent. over-rate in New York. These calculations, reckoning one-fourth commission to be paid in New York and London on the transactions, are based upon the Bank receiving one-fourth per cent. profit as stated at recent interviews. Cash transfers in London, to the credit of the Bank for the use of the Company in Canada, will carry 1½ per cent. premium over New York rate, at time of entry in Canada, being equivalent to 75 days difference of time. Bills at 30 and 90 days will be subject respectively to advance and reduction of one-half per cent.

"The Bank Directors, believing the account of the Great Western Railway Company to be an important one, from the indirect value of receipts, and issue of our notes for disbursements, desire to conduct the account in the most liberal manner; and, with this view, have sanctioned the terms as stated. Hereafter should any change be found necessary, either on the part of the Company or of the Bank, such alteration can doubtless be considered by both parties in the same spirit.

"In all such agreements, as the present, it is usual to name some period for notice of withdrawal therefrom. This I overlooked when at Hamilton; and while we look upon the arrangement as a permanent one, it is but right you should have a condition attached in this respect, as to which please advise me.

"It is understood that the debt of the Great Western Railway Company to the Bank of Upper Canada, (say about £70,000), is covered, or to be covered by Bond at three months' date, to be retired by Bill on London. The Company will endeavour to settle Bond by Bill directly with Bank of Upper Canada, and without the intervention of this Bank. Should, however, the Company consider the rate offered by Bank of Upper Canada for such Bill unduly low, this Bank will interpose in the matter—negotiate the Company's Bills in New York, or elsewhere, if to better advantage—giving to the Company the benefit of the Bank's endorsement and connection without charge.

"But it is recommended that the Great Western Company should ascertain, on what terms the Bank of Upper Canada will settle, say fifteen or twenty days before maturity of the Bond, so that, should the Bank have to intervene, time may be had to negotiate the Bills without being forced to sell for any one packet.

"I believe the above covers all the material points in the agreement, and if you find them to be correct, stated, please submit to the Board, and confirm on the part of the Great Western Railway Company."

"I remain, Sir, your most obedient servant,
(Signed)

C. S. ROSS, CASHIER.

The Managing Director was requested to reply in general terms of approval of the points mentioned in Mr. Ross' letter, and to state that the Board consider that six months would be a reasonable notice for an intention to withdraw the account.

(24.)

Filed by
Plaintiff.

ADJOURNED MEETING OF FINANCE COMMITTEE OF
CANADIAN BOARD, ON TUESDAY, 8th September, 1857.

PRESENT:

JOHN YOUNG, VICE-PRESIDENT, Chairman.

R. JUSON,

F. W. GATES.

740.

ROSS—COMMERCIAL BANK—INTEREST ON PROVINCIAL BONDS.

READ a letter from Mr. C. S. Ross, Manager of the Commercial Bank, of 1st September, in reply to the Managing Director's letter of 31st August, expressing his disposition to meet the requirements of the Company by advancing the amount due to the Government for interest, due on 1st July, on Provincial Bonds, if he can arrange satisfactorily with the Receiver General.

(25.)

Filed by
Plaintiff.

MEETING OF CANADIAN BOARD, ON FRIDAY, September 11th, 1857.

PRESENT:

JOHN YOUNG, VICE-PRESIDENT, is the Chair.

R. JUSON,
H. C. R. BECHER,
WM. GOVAN,
ADMIRAL LAWS,

} by their proxy, R.
JUSON.

F. W. GATES,
THE MAYOR OF HAMILTON,
T. CULLEN, by his proxy, J. YOUNG.

1857.

COMMERCIAL BANK—INTEREST—GOVERNMENT LOAN.

THE Secretary reported that Mr. Ross, Cashier of the Commercial Bank, had agreed to advance to the Company the amount of £28,645 5s. 8d., paid by Messrs. Glynn & Co., charged to the Government here, for interest due on the 1st July last, on £770,000 sterling, Provincial Bonds, issued by the Provincial Government on account of this Company; the Bank requiring a bond from the Company at 60 days for repayment of the amount.

Under proper sanction, a cheque for the amount, in favour of the Receiver General, had been drawn and paid into the Commercial Bank, to the credit of the Receiver General, who had been advised.

The following letter, subsequently received from Mr. Ross, was read:—

"COMMERCIAL BANK OF CANADA,
"KINGSTON, 11th September, 1857.

"C. J. BRYDGES, Esq.,
"DEAR SIR,

"With reference to your letter of 31st ultimo, previously acknowledged, I have now to advise that arrangement has been made with Receiver General to take deposit of the amount, £28,645 15s. 6d., alluded to. I wish to intimate, however, that we look for cheques of Receiver General within next three days for £25,000 @ £30,000; and, therefore, I will thank you to have transfer made to our credit in London Joint Stock Bank of a sum not less than the deposit, so that your overdrawing limit may not be affected by the matter, and in order that our London account may be put right to a corresponding amount.

"I am, dear Sir,

"Your most obedient Servant,
(Signed) "C. B. ROSS,
"Cashier."

"MANAGING DIRECTOR,
"Great Western Railway Co.,
"Hamilton."

The Board approved the arrangement, and authorised the sealing of the required bond, and directed that a copy of Mr. Ross's letter be sent to England by the first mail—the Secretary calling the earnest attention of the English Board thereto

(26.)

Filed by
Plaintiff.

**MEETING OF FINANCE COMMITTEE OF CANADIAN BOARD, ON
FRIDAY, 18th September, 1957.**

PRESENT :

JOHN YOUNG, Vice-President, Chairman.

R. JUSON,

F. W. GATES,

THE MAYOR OF HAMILTON.

752

RECEIVER GENERAL SINKING FUND—BOND—COMMERCIAL BANK.

THE Secretary laid on the table a letter from the Receiver General, acknowledging the receipt of a cheque for £28,645 5s. 8d., in payment of interest due on the 1st July last, on Provincial Bonds; also, a letter from Mr. Park, Manager of the Commercial Bank, acknowledging the receipt of Bond for £28,645 5s. 8d., the amount advanced by that Bank for repayment of interest on Provincial Bonds.

(27.)

Filed by
Plaintiff.

MEETING OF THE ENGLISH BOARD, TUESDAY, September 29th, 1857.

PRESENT :

ROBERT GILL, Esq., President, in the Chair.

ADMIRAL T. M. LAWS,
WILLIAM GOVAN, Esq.,THOMAS CULLEN, Esq.
C. J. BRYDGES, Esq.

1583.

COMMERCIAL BANK OF CANADA.

MR. BRYDGES reported that, as recommended in Minutes of this Board, No. 1528, the Banking Account of the Company had been closed at the Bank of Upper Canada, and as stated in Finance Committee Minutes of July 31st, No. —, a Bond at three months date, due November 1st, had been given for the balance due to that Bank, about £70,000 currency, provision for which must be made by the English Board; and that the Banking Account had been opened with the Commercial Bank of Canada, the conditions of such account being set out in the letter of Mr. C. S. Ross, the Manager, of August 11th.

The Board approved of this arrangement.

ENGLISH BOARD, TUESDAY, 10th November, 1857.

(28.)

Filed by
Plaintiffs.

PRESENT:

ROBERT GILL, Esq., PRESIDENT, in the Chair.
 ADMIRAL T. M. LAWS, WILLIAM GOVAN, Esq.,
 THOMAS CULLEN, Esq., C. J. BRYDGES, Esq.

THE following Resolutions were adopted:

"That Mr. C. J. Brydges be empowered and is hereby empowered to accept of a transfer of \$2,500,000, fully paid-up Stock of the Detroit and Milwaukee Railway Company, on behalf of the English Board, and that a form of proxy be signed by the members of the English Board, authorising Mr. Brydges, failing whom, Mr. Thomas Reynolds, to vote at all general meetings of the Detroit and Milwaukee Railway Company, in respect of said Stock, in the name of the English Board.

"That Mr. Brydges be further authorised to obtain from the Detroit and Milwaukee Company, and hold, on behalf of the English Board, \$400,000 of Detroit and Milwaukee Second Mortgage Eight per cent. Bonds, and also the Land Certificates representing 45,000 acres of land, being the undelivered balance of Certificates for 50,000 acres granted to the Detroit and Milwaukee Company by the State of Michigan.

"That the Coupons of Interest on Detroit and Milwaukee Bonds due 15th November, and paid by Duncan, Sherman & Co., and which are not to be cancelled, be handed to Mr. Brydges, or Mr. Reynolds, and they be instructed to take the necessary steps in America to secure legally the precedence of the claim of the Great Western Railway on the Detroit and Milwaukee Railway property, in respect of these Coupons with interest thereon.

"That the two acceptances, dated July 23rd, 1857, of Major A. H. Sibley, of Mr. H. N. Walker's drafts for £10,000 each, and the protest for non-payment of the same, be handed to Mr. Brydges, to be used in any way he may deem necessary for securing the Great Western Railway Company from loss.

"That, exercising the powers conferred on the English Board by the above-named Agreement of nominating the members composing the Board of the Detroit and Milwaukee Railway, the six members of the Great Western Railway Direction be nominated, together with Mr. H. N. Walker, Mr. C. C. Trowbridge, and Mr. H. Ledyard.

"That it be left to the discretion of Mr. Brydges and Mr. Reynolds, after complete investigation of the Detroit and Milwaukee accounts, and after having made such arrangements with the creditors forming the floating debt as they may deem satisfactory, to close up existing sub-contracts for works, Mr. Wythes having expressed his willingness to relinquish his contract, on payment of a balance of not exceeding £5,000 due to him, or to stop all future expenditure on the works except what is actually necessary for working the line, or to cause the continuance of the works to be proceeded with as far as, or beyond, Grand Rapids, it being well understood that the basis of any advance of funds by the Great Western Railway for this purpose, is, that the expenditure shall be wholly under the direction and control of Mr. Brydges and Mr. Reynolds; and that such outlay shall not in any manner be jeopardised by the claims of existing creditors of the Detroit and Milwaukee Company."

(29.)

Filed by
Plaintiffs.ENGLISH BOARD, *November 12th, 1857.*

PRESENT:

ROBERT GILL, Esq., PRESIDENT, in the Chair.

ADMIRAL J. M. LAWS,
THOMAS CULLEN, Esq.,WILLIAM GOVAN, Esq.,
C. J. BRYDGES, Esq.

1682.

PROXIES FOR DETROIT AND MILWAUKEE.

A form of proxy was prepared and signed by each of the Directors present in favor of Mr. C. J. Brydges, failing whom Mr. Thomas Reynolds, empowering one of them to vote at all general meetings of the Detroit and Milwaukee Company, in respect of \$2,500,000 of stock transferred into the name of the English Board as per Minute No. 1674.

Four forms of proxy were also prepared and signed respectively by each member of the English Board, in favor of Mr. C. J. Brydges and Mr. Thomas Reynolds, empowering one of them to vote for the members of this Board at all meetings of the Detroit and Milwaukee Board as Directors of that Company, pursuant to the agreement of November 10th last, and, in virtue of a by-law to be passed to that effect by the Detroit and Milwaukee Board.

(30.) 30

Filed by
Plaintiffs.ENGLISH BOARD, *November 24th, 1857.*

PRESENT:

ROBERT GILL, Esq., PRESIDENT, in the Chair.

THOMAS CULLEN, Esq.,

ADMIRAL J. M. LAWS.

1701.

DETROIT AND MILWAUKEE COMPANY.

READ letter from Mr. C. C. Trowbridge, Secretary of the Detroit and Milwaukee Railway, dated Nov. 14, addressed to the Chairman, with copies of Resolutions of the Board of the Detroit and Milwaukee Railway Company, of October 31st and November 4th, electing Robert Gill, Esq., a Director of that Company, and directing that a share certificate for 20,000 Detroit and Milwaukee shares of \$50 each, amounting to one million of dollars, should be forwarded to Mr. R. Gill, and which so forwarded, the said certificate being made out in the name of the Great Western Railway Company—

Resolved—"That Mr. Brydges having been so amply instructed in the views of the Board, relative to matters in connection with the authorised advance of funds to complete the Detroit and Milwaukee Railway, as set out in former Minutes of this Board, and the above mentioned Resolution of the Detroit and Milwaukee Board not fulfilling the requirements of the said Minutes, and of the agreement with Mr. H. N. Walker of November 9th, this Board defers taking any further action in these matters, and keeps them in abeyance until it receives further reports from Mr. Brydges and Mr. Reynolds."

ENGLISH BOARD, January 26th, 1859.

(31.)

PRESENT:

Filed by
Plaintiffs.

ROBERT GILL, Esq., PRESIDENT, in the Chair.

WILLIAM GOVAN, Esq.,

THOMAS CULLEN, Esq.

1812.

DETROIT AND MILWAUKEE ARRANGEMENTS.

The Board having read and considered the joint letter of Mr. C. J. Brydges and Mr. T. Reynolds, dated December 28, received per "Canada," January 12, with financial statement "A" therein referred to, and Mr. T. Reynolds statements of Detroit and Milwaukee accounts, and his letters also dated December 28; and also the joint letter of those two gentlemen dated January 11, per "Niagara," this day, January 26, with the amended financial statement "B" enclosed, with reference to the arrangement that had been made by them in the affairs of the Detroit and Milwaukee Railway Company to meet the claims of the most urgent debts, and to agree with creditors, especially those at New York, who hold as security for their claims rails or second mortgage bonds, that any outlay of funds should be extended over a considerable period, whereby these securities will be held by the Great Western Railway Company, and also to provide for the postponement of the claims of other creditors of the Detroit and Milwaukee Company, until the interest on the bonded debt and on the Great Western Railway advances is paid, and to provide for the continuation of the works to complete the line to Grand Haven.

Resolved—"That the Board concurs with Mr. Brydges and Mr. Reynolds that it is of the utmost importance to the traffic of the Great Western Railway to secure the early opening of the Detroit and Milwaukee Railway.

"That the arrangement they have made for effecting this, and for securing the advances made and to be made by the Great Western Railway Company, is the best that could have been made, and is quite satisfactory to this Board, and fulfils the requirements of the resolution of the General Meeting of Shareholders of October last: such arrangement is therefore approved and confirmed by the Board.

"That the thanks of the Board are due to Mr. C. J. Brydges and Mr. T. Reynolds and the other members of the Board in Canada for the exertions they have made, and for the ability they have displayed under the circumstances in which the Detroit and Milwaukee Company were placed.

(32.)

Filed by
Plaintiffs.

ENGLISH BOARD, *February 10th, 1858.*

PRESENT :

ROBERT GILL, Esq., PRESIDENT, in the Chair,
THOMAS CULLEN, Esq.

1845.

DETROIT AND MILWAUKEE ARRANGEMENT.

READ the joint letter of Mr. Brydges and Mr. Reynolds, dated January 25, announcing the completion of the arrangement for securing this Company for the advance to be made to the Detroit and Milwaukee Company, by the execution under date January 1st, 1858, of the Mortgage Deed transferring to Mr. Brydges, Mr. Reynolds, and Mr. H. C. R. Becher, as trustees, all the property, both real and chattel, acquired and to be acquired by the Detroit and Milwaukee Company, so far as they are not affected by previous mortgages, and vesting the entire control of the expenditure of funds to complete the line in the said trustees, and also the management of the railway, and the disposal of the net income as there provided for, as otherwise assuring the repayment of the money advanced, or to be advanced, by the Great Western Railway with interest, at the rate of ten per cent. per annum. Copy of this mortgage deed being also forwarded, and also copy of an agreement executed between the same parties, and at the same date, containing further covenants for better securing of the Great Western Railway Company, and stipulating that the whole of the land granted by Congress to the Detroit and Milwaukee Company, shall be conveyed to the same trustees; and also copy of a letter from H. H. Emmons and Wm. Gray, lawyers, of Detroit, stating that the mortgage deed is a legal, valid and binding instrument to effect the object which it expresses and intends.

"Resolved—That this Board confirms these proceedings, and entirely approves of the able, complete and satisfactory manner with which the arrangements have been carried out."

1846.

THE letters also advise that, pursuant to agreement, the Detroit and Milwaukee Board of Directors is composed as follows:

Mr. ROBERT GILL, *Chairman of London G. W. R. Board.*
 Mr. WM. GOVAN, *Director,* " "
 Mr. JOHN YOUNG, *Chairman,* *Canada* "
 Mr. C. J. BRYDGES, *Director,* " "
 Mr. THOMAS REYNOLDS, " "
 Mr. H. C. R. BECHER, " "
 Mr. N. P. STEWART, *President, D. & M. Board.*
 Mr. H. N. WALKER, *Director,* " "
 Mr. E. A. BRUSH, " "

And further announcing that a Bill is now before the Legislative Assembly of Michigan, to authorise absent Directors of the Detroit and Milwaukee Company to vote by proxy; and, when passed, it is understood that Admiral Laws and Mr. T. Cullen will take the places of Mr. J. Young and Mr. H. C. R. Becher.

ENGLISH BOARD, *February 26th, 1858.*

PRESENT:

ROBERT GILL, Esq., *PRESIDENT*, in the Chair.

WILLIAM GOVAN, Esq.,

THOMAS CULLEN, Esq.

(33.)

Filed by
Plaintiff.

1867

DETROIT AND MILWAUKEE BOARD.

THE Board presumes from Mr. Brydges letter of February 8th, that the law authorising absent Directors of the Detroit and Milwaukee Company to vote by proxy being now passed in the Legislature of Michigan, the other two members of the Great Western Railway English Board, as mentioned in Minute No. 1846, are now elected members of the Detroit and Milwaukee Board, viz.:

ADMIRAL T. M. LAWS, } in the place of { MR. JOHN YOUNG, AND
 MR. T. CULLEN, } " " H. C. R. BECHER,

and the necessary Parliamentary powers being obtained, it is desirable to adopt measures to carry them out; and therefore, if the proxies from each member of the Board to vote at the Detroit and Milwaukee Board, dated Nov. 12th, 1857, in favor of Mr. C. J. Brydges, failing whom, Mr. Thomas Reynolds, as recorded in Minute of the Board, No. 1682, are sufficient for the purposes.

The Board also wishes to receive regularly, and from time to time, copies of the Minutes of Proceedings of the Detroit and Milwaukee Board; and also a copy of the Detroit and Milwaukee Balance Sheet and Ledger, balances to December 31st, 1857, together with the Journal entries, shewing Cash transactions since that date.

(34.)

Filed by
Defendant.ENGLISH BOARD, *March 10th, 1858.*

PRESENT:

ROBERT GILL, Esq., PRESIDENT, in the Chair.
THOMAS CULLEN, Esq.

1885.

DETROIT AND MILWAUKEE LOAN.

The Board wishes to call the especial attention of the Trustees in Canada for the application of the loan of £150,000 granted by the proprietors to complete the Detroit and Milwaukee line, to the absolute necessity of not entering into any engagements or undertakings whereby the above amount of advance can by any possibility be exceeded: that sum being the extreme limit to which the Board is justified in going.

(35.)

Filed by
Plaintiff.ENGLISH BOARD, *May 18th, 1858.*

PRESENT:

ROBERT GILL, Esq., PRESIDENT, in the Chair.
THOMAS CULLEN, Esq.

1878.

DETROIT AND MILWAUKEE LOAN ACCOUNT.

A letter was written by the Board to Mr. Pollard, Manager London Joint Stock Bank, advising him of the maturity, on the 20th May instant, of the draft of Messrs. Brydges and Reynolds on Detroit and Milwaukee Loan Account, accepted by the Board, for the sum of £6,000, requesting him to retire the same to the debit of the Company.

(36.)

Filed by
Defendant.ENGLISH BOARD, *June 22nd, 1858.*

PRESENT:

ROBERT GILL, Esq., PRESIDENT, in the Chair.
THOMAS CULLEN, Esq.

2014.

DETROIT AND MILWAUKEE LOAN.

READ the joint letter of Messrs. Brydges and Reynolds, of June 7th, on the subject of the Detroit and Milwaukee Line. The Board is gratified at the renewed assurance that the Railway will be opened throughout for the total advance of the

£150,000. After our redeeming our promise to the Shareholders, should they think fit to authorise a further and additional Loan, it will afford means to provide for the expected large traffic; but the Board cannot sanction liabilities being incurred beyond the first amount of Loan, on the contingency of a second Loan being authorised hereafter, referring Messrs. Brydges and Reynolds to the Minute of the Board on this subject of March 10th last, No. 1885.

(Signed)

ROBERT GILL.

ENGLISH BOARD, July 27th, 1858.

(37.)

Filed by
Defendants

PRESENT:

ROBERT GILL, Esq., PRESIDENT, in the Chair.

THOMAS CULLEN, Esq.,

WILLIAM GOVAN, Esq.

2046.

DETROIT AND MILWAUKEE FINANCIAL POSITION.

WITH reference to the joint letter of Messrs. Brydges and Reynolds, on the Detroit and Milwaukee affairs, dated July 12, stating that owing chiefly—

1st. To the deficiency in the actual net receipts of the section of the line open to traffic, compared to the amount estimated to be received.

2nd. To the estimate of the Cash amount required to complete the line to Grand Haven, and to furnish sufficient Rolling Stock being unavoidably exceeded.

3rd. To the impracticability of postponing payment of all the unsecured debts of the Company until the line is entirely open and yielding returns.

For these reasons, a further advance of funds to the extent of £100,000 is required before the close of the present year, and a similar sum during next year.

Resolved—"That this Board regrets to have to repeat, as already recorded in its Minutes, Nos. 1885 and 2014, that it feels it to be the duty of the Board, under any circumstances, not to exceed the limit of its advances to the Detroit and Milwaukee Company beyond the £150,000 voted by the Shareholders, until their authority be obtained to extend that limit."

And the very discouraging Financial position and prospects of the Detroit and Milwaukee Company, now disclosed, convinces the Board, that unless a more favourable and promising statement can be laid before the Proprietors, no further funds will be voted for this purpose.

The Board is also induced to enquire as to the validity of the security held for advances already made to the Detroit and Milwaukee Company, the effect of the above joint letter having been to create alarm in the minds of the Directors.

(38.)

Filed by
Defendants.ENGLISH BOARD, *October 12th 1858.*

PRESENT:

ROBERT GILL, Esq., PRESIDENT, in the Chair.
THOMAS CULLEN, Esq.

2004.

DETROIT AND MILWAUKEE LOAN.

With reference to the further loan of £100,000 granted by the Shareholders at the last General Meeting to the Detroit and Milwaukee Railway Company, the Board wishes it to be distinctly understood:

"That the expenditure of this sum having by the Proprietors been resolved to be made by and under the control of the Directors of the Great Western Railway, it is necessary, before any portion of it is availed of, that a programme be prepared, showing the manner in which it is intended to be appropriated, and which, when approved, must be adhered to as strictly as circumstances will allow, bearing in mind that this amount is granted by the Proprietors specifically for the purpose of providing rolling stock and station accommodation to the line of railway opened by the aid of the former grant.

"That ample mortgage security must be obtained for such advance of funds under legal advice, the rate of interest being as for the previous loan.

(Signed,)

"ROBERT GILL."

CANADIAN BOARD, *24th December, 1858.*

PRESENT:

JOHN YOUNG, VICE-PRESIDENT, Chairman.

O. J. BRYDGES, MANAGING DIRECTOR, THOMAS REYNOLDS, FINANCIAL DIRECTOR.

RICHARD JUSON, F. W. GATES,

THE MAYOR OF HAMILTON,

(39.)

Filed by
Plaintiffs.

1524.

SECURITIES, DETROIT AND MILWAUKEE RAILWAY.

A CERTIFICATE was laid on the table, representing 20,000 shares of \$50 each, making one million of dollars in the Detroit and Milwaukee Railway, registered in the names of C. J. Brydges, Thomas Reynolds, and H. C. R. Becher, as Trustees for the Great Western Railway Company, as a collateral security for the repayment of the sum of £100,000 sterling, to be advanced by this Company to the Detroit and Milwaukee Railway Company, under a resolution of the Proprietors, passed at the Half-yearly General Meeting in London, on the 7th of October, and in Canada on the 2nd November, 1858, and was deposited in the safe, with the general securities of the Company.

JOHN YOUNG,
Vice-President.

MEETING OF FINANCE COMMITTEE OF
CANADIAN BOARD, ON FRIDAY, 25th February, 1859.

(40.)

PRESENT :

THOMAS REYNOLDS, CHAIRMAN,
JOHN YOUNG, VICE-PRESIDENT, C. J. BRYDGES, MANAGING DIRECTOR,
RICHARD JUSON, F. W. GATES,

Filed by
Plaintiffs
and De-
fendants.

958.

SHORT DATE BONDS.

THE Chairman informed the Committee that recent letters from the English Office having requested that no further drafts might be issued on the English Board, on account of the second loan to the Detroit and Milwaukee Railway Company, at present, it had been arranged to give the Detroit and Milwaukee Company a short date Bond, due June 1-4, 1859, for \$100,000, which the Commercial Bank had agreed to cash for the Detroit and Milwaukee Railway Company—the amount to be carried to the debit of the Detroit and Milwaukee Loan Account, and the Bond provided for at maturity, out of the Funds of the Company in Canada. A Bond, No. 279, for that amount had accordingly been sealed, signed, and issued to the Detroit and Milwaukee Railway Company.

A Bond, No. 278, for \$3798 52c., due July 1-4, 1859, had also been issued to R. Juson & Co., in payment of their accounts, per vouchers 2956 and 3097.

The Committee approved and confirmed these arrangements.

MINUTES OF MEETING OF FINANCE COMMITTEE OF
CANADIAN BOARD, 2nd April, 1859.

(41.)

PRESENT :

THOMAS REYNOLDS, Chairman.
JOHN YOUNG, VICE-PRESIDENT, RICHARD JUSON,
C. J. BRYDGES, MANAGING DIRECTOR, F. W. GATES.

Filed by
Plaintiffs
and De-
fendants.

973

DETROIT AND MILWAUKEE LOAN.

THE Chairman reported that the Bank Account having been sufficiently in credit on the 21st March, the sum of \$50,000 had been paid to the Commercial Bank, in anticipation of the Bond for \$100,000, issued on account of the Detroit and Milwaukee Loan, and due 1st June next.

By this arrangement this Company would be entitled to charge the Detroit and Milwaukee Company interest at 10 per cent, from the date of such payment, and as the balance at the Bank will now admit of it, it was proposed that the remaining sum of \$50,000 should be now paid and the bond retired, which the Committee approved.

(42.)

Filed by
Plaintiffs.

2274

ENGLISH BOARD, *April 12th, 1859.*

PRESENT:

DETROIT AND MILWAUKEE LOAN, £20,000.

A DRAFT of Messrs. Brydges and Reynolds, on account of the loan of the Detroit and Milwaukee Company, for the sum of £20,000, accepted by resolution of this Board, No. 2153, falling due on the 17th April inst., a letter was written to Mr. Pollard, Manager of the London Joint Stock Bank, by the Board, requesting him to retire this draft at maturity, and to place the amount to the debit of the General Account.

(43.)

Filed by
Plaintiffs.

1574

CANADIAN BOARD, *16th April, 1859.*

PRESENT:

JOHN YOUNG, VICE-PRESIDENT, Chairman.

C. J. BRYDGES, MANAGING DIRECTOR,
THOS. REYNOLDS, FINANCIAL DIRECTOR,
RICHARD JUSON,

H. C. R. BECHER,
F. W. GATES,
THE MAYOR OF HAMILTON.

DETROIT AND MILWAUKEE RAILWAY.

Laid on the table, a Deed of Mortgage to C. J. Brydges, Thomas Reynolds and H. C. R. Becher, the Trustees of the Great Western Railway Company, on the properties of the Detroit and Milwaukee Railway Company, subject to previous mortgages, and 300 Fourth Mortgage Bonds of that Company, of \$1000 each, say in all \$300,000, issued to the Great Western Railway Company as security for the repayment of the second loan to the Detroit and Milwaukee Company of \$500,000, authorized by the proprietors of the Great Western Railway at the half-yearly meeting in England on the 7th October, and in Canada on the 2nd November, 1853.

(NOTE.—A certificate for \$1,600,000 of Detroit and Milwaukee Stock had been already issued to this Company as collateral security for the repayment of this loan. See Board Minute 1524, of 24th Dec., 1858.)

A Deed of Assignment of the interest of the Detroit and Milwaukee Company, in 50,000 acres of land in the State of Michigan, granted by the State to the Detroit and Milwaukee Company, to assist in the construction of their line of Railway, this Deed being also in favour of the same parties as Great Western Railway Trustees, and has been fully registered in the various offices required by the laws of Michigan, and appertains to the mortgage issued by the Detroit and Milwaukee Company on account of the previous loan of \$750,000. See Finance Committee Minute, No. 911, of the 15th of October, 1858.

The Board directed that the foregoing Deeds be deposited in the safe with the Company's other securities.

JOHN YOUNG,
Vice-President.

ENGLISH BOARD, April 19th, 1859.

(44.)

Filed by
Plaintiffs.

PRESENT:

ROBERT GILL, Esq., President, in the Chair.

THOMAS CULLEN, Esq.,

ALEXANDER HOYES, Esq.

2278

DETROIT AND MILWAUKEE BOARD.

It was notified that in the letters from Canada, received this day, advice was given of the election of Mr. Alexander Hoyes, to a seat at the Detroit and Milwaukee Board, in lieu of the late Admiral Laws, whose election was recorded in Minute of this Board, No. 1867.

MINUTES OF MEETING OF FINANCE COMMITTEE OF CANADIAN BOARD, ON 28th May, 1859.

(45.)

Filed by
Defendants.

PRESENT:

THOMAS REYNOLDS, Chairman.

JOHN YOUNG, VICE-PRESIDENT,
C. J. BRYDGES, MANAGING DIRECTOR.

RICHARD JUSON,
F. W. GATES.

COMMERCIAL BANK OF CANADA.

The Chairman reported that the Commercial Bank required to have their accounts in London, New York, &c., covered by the 15th June, preparatory to the closing of the Bank Statements for the six months ending the 30th June.

The overdrafts by this Company and the Detroit and Milwaukee Railway Company are at the present moment in excess of the understanding come to with the Bank when they took the accounts, and the Bank now wish the surplus to be provided for prior to the 15th June.

The subject had been very fully considered and discussed with the Bank, and as it was not possible to comply with their request for exchange upon England, the following arrangement had been suggested by the Bank :

The principal overdraft being on account of the Detroit and Milwaukee Company, that Company to give the Commercial Bank five notes each for \$50,000, made payable to Mr. C. J. Brydges and Mr. T. Reynolds, and endorsed by them, which the Bank proposes to get discounted, and place the proceeds to the credit of the Detroit and Milwaukee Company's account. These notes at maturity to be protected by the Commercial Bank, and the amount debited to the Detroit and Milwaukee account.

To enable the Bank to negotiate these notes, they require in addition to the endorsement of Messrs. Brydges and Reynolds, bonds of the Great Western Railway Company at six months date for the sum of \$250,000 to be lodged as collateral security with the parties discounting the notes; these Great Western Railway bonds on the Detroit and Milwaukee Company's notes being so paid by the Commercial Bank to be *cancelled* and returned to the Great Western Railway Company, the object being merely to use them as collateral security, and not for negotiation in any shape whatever.

Resolved—"That these arrangements, as far as this Company is concerned, be approved of on the understanding set forth in the foregoing Minute; and that five bonds, each for \$50,000, payable in six months, be prepared and executed, and handed to the Detroit and Milwaukee Railway Company, to be lodged with the Commercial Bank as collateral security to the Detroit and Milwaukee Company's notes."

"THOMAS REYNOLDS,

"Chairman." 3rd June, 1859.

MEETING OF THE CANADIAN BOARD OF DIRECTORS, ON
FRIDAY, the 3rd June, 1859.

(46.)

Filed by
Plaintiff.

PRESENT:

JOHN YOUNG, VICE-PRESIDENT, Chairman.

C. J. BRYDGES, MANAGING DIRECTOR.
THOS. REYNOLDS, FINANCIAL DIRECTOR.
RICHARD JUSON,

H. C. R. BECHER.
F. W. GATES.
THE MAYOR OF HAMILTON.

1586.

The Minutes of the Meeting of the Finance Committee on the 20th May, and of the Special Meeting on the 28th May, were read and adopted.

ENGLISH BOARD, June 17th, 1859.

(47.)

Filed by
Defendant.

PRESENT:

ROBERT GILL, Esq., PRESIDENT, in the Chair.

THOMAS CULLEN, Esq.,

ALEXANDER HOYES, Esq.

2326.

DETROIT AND MILWAUKEE FINANCIAL ARRANGEMENTS.

READ Messrs. Brydges and Reynolds letter to the Board, of May 30, and Minutes of the Finance Committee of May 28, whereby the Board observing that a deposit of Great Western Bonds to the extent of \$250,000 has been made to the Commercial Bank of Canada, as a collateral guarantee for the payment of Detroit and Milwaukee obligations.

Whilst recognising the difficulties in which the latter Company may be placed, and fully appreciating the personal responsibility which has been undertaken by Messrs. Brydges and Reynolds in the matter, the English Board feel called upon nevertheless distinctly to protest against any arrangement which by any possible contingency may have the effect of increasing the advance by way of loan to the Detroit and Milwaukee Company, beyond the sum sanctioned by the shareholders of the Great Western Company.

(Signed)

ROBERT GILL,

(48.)

Filed by
Defendant.

"R. W. HARRIS, Esq.

"DEAR SIR,

"On 1st September I addressed Mr. Baker, Secretary, London, at his request, on the subject of transfer of funds from London to Canada, and about paying Coupons on Bonds of Detroit and Milwaukee Railway Company, but received no reply to the letters.

"I now beg to hand you copies of these letters, and have to request information whether we are to consider the matters have lapsed; because, as regards payment of these Coupons, if we are to intervene, it is now full time that instructions were given to us by the London Joint Stock Bank, the Coupons maturing on the 15th November.

"I am, dear Sir, your most obedient servant,

"C. S. ROSS,
"Cashier.

"President

"Great Western Railway Co.,
"Hamilton."

(49.)

Filed by
Defendant.

"B. BAKER, Esq.,

"Secretary Great Western Railway Company of Canada,
"London:

"SIR,

"With reference to our recent conversation on the subject of arrangements for transferring funds from London to Canada, through the medium of the Commercial Bank, M. D., I beg to address you with written memoranda of the terms which I proposed on behalf of the Bank, and will thank you to submit them to the Board of Great Western Railway Company.

"I would, however, first premise that we do not desire to interfere with the existing arrangements between your Company and the Bank of Upper Canada, or any part of them made with us, presuming that such a thing would at present be objectionable with reference to the Bank of Upper Canada. But in making proposals as undernoted, we of course object to cheque in our Hamilton office being given to the Bank of Upper Canada against the proceeds of sterling deposits in London transferred to Canada through us, as such a proceeding would entail positive loss to us in view of the rates offered. The terms for making such transfers of funds which I proposed would therefore be as follows:

"1st. The Great Western Railway Company would place the sterling amount to be transferred to Canada to the credit of the Commercial Bank, M. D., with London Joint Stock Bank in London. These deposits would be advised in next official letter from the latter to the former, and the equivalent amount in our money placed at credit of the Great Western Railway Company at the Hamilton office of the Commercial Bank, M. D.

"2nd. The amount in currency so placed at Hamilton office would be subject to the cheques of the Company on demand, for all business disbursements of the Company, but not to be transferred to other Banks.

"3rd. The rate of exchange at which entry would be made of such deposits in London would be one per cent. over current rates for purchasing at the time (to cover the difference between cash and 60 days discount,) and the rate for purchasing would be, say $\frac{1}{2}$ (one-half) per cent. over *selling Bank rate* in Montreal. This is predicated upon our being (generally) able to sell our bills to importers at a rate exceeding Montreal rate by $\frac{1}{2}$ per cent.

"ABERDEEN, 1st Sept., 1856.

"4th. The Bank would allow the Company interest on the daily balance of amount at the rate of 3 (three) per cent. per annum, presuming a fair balance were kept; and if the balance were large for any length of time, then a higher rate would be given.

"5th. Interest would accrue to the Company on the sterling deposits from their respective dates in London, not from date of entry in Canada.

"I believe the above embraces the points discussed between us. If the terms meet the concurrence of your Board, please address me at Kingston, Canada, whence I shall reply after having the matter sanctioned by our Board. This I should wish done, although I now hold power-of-attorney from the Board to make such negotiations as the present. Meantime, should you see any modification of the terms to be necessary, a letter to my address as under will find me here up to the 6th instant.

"I may add that should the Company offer to sell us Bills in London at Hamilton office, we should take them at corresponding rates, allowing for the difference between cash in London and the currency of such Bills added to time required for transmission.

"I am, Sir, your most obedient servant,

"C. S. ROSS,

"Cashier Commercial Bank, M. D.,

"Kingston, Canada."

"ABERDEEN, 1st September, 1856.

(50.)

"B. BAKER, ESQ., Sec'y.

"Gt. West. R. Co. of Canada,

"London.

Filed by
Defend'te.

"Sir,

"Referring to our late interview, and your proposition that the Commercial Bank, M.D., should undertake the payment in London of the Coupons for interest upon the Bonds of the Detroit and Milwaukee Railway Company, I now beg to state that I understand the case to be as under:

"The Bonds amount to \$1,280,000, or say, £250,000 sterling, according to the prospectus handed to me. They carry interest at seven per cent. per annum, payable by the Coupons semi-annually, 15th November and 15th May. These Coupons are payable in New York, and it is proposed that our Bank should give instructions to the London Joint Stock Bank, to pay them to the holders on presentation, for our account, and at the rate of five shillings sterling to the dollar. I further understand, that the Great Western Railway Company retain, out of receipts from Railway traffic, accruing to the Detroit and Milwaukee Railway Company, under existing agreement between the two Companies, a sum sufficient to cover the payment of these interest Coupons, and thus the holders have practically the guarantee of the Great Western Railway Company for payment.

"Presuming that I have correctly understood the matter, I beg to say, that on my return to Kingston, I will submit to our Board and recommend for adoption your proposition, as above coupled; however, with the condition of receiving an obligation from the Great Western Railway Company, stating that they will be responsible to us for the due collection and retention of the amount required to cover the interest, and at all times when the Coupons fall due; and further, that they furnish to the London Joint Stock Bank, an authentic list of the Bonds, with correct numbers and other particulars, such as will guard that Bank and ourselves from paying any other than genuine Coupons.

"I will thank you to acknowledge the receipt of this letter, and to inform me if I have correctly remembered the particulars.

"I am, Sir,

"Your most obed't Servant,

(Signed)

"C. S. ROSS,

"Cashier, C. B., M.D., Kingston, Canada."

"FRIDAY, 14th February, 1857.

(51.) "MY DEAR SIR,

Filed by
Defend'ts.

"There is a small amount against the Company in our books, £1 3s. 1d., which Mr. McKinstry no doubt made known at the time, as upon that returned Bill for Southern Railway.

"Please cause it to be covered at your convenience.

"Yours very truly,

"W. H. PARK.

"C. J. BRYDGES, Esq."

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 27th February, 1857.

(52.)

Filed by
Defend'ts.

"W. C. STEPHENS, Esq.

"DEAR SIR,

"I am this morning favoured with your note of yesterday's date, by which I observe that the Company know nothing of the transactions causing the small debit balance referred to in my note addressed to Mr. Brydges.

"On reference to our books, I find that the Company got credit on the 17th July last for Radcliffe, on your London Directors' currency.....£24,388 17 11

"On the 18th August, placed at interest, to account of the Company, at 6 per cent..... 24,388 17 11

"On 17th Nov. dishonored bill of Radcliffe, on Great Western Railway, London, charged with expenses and interest,£24,758 17 8

"Same day—covered in part by transfer of deposit, at interest, with 6 per cent for time... 24,757 14 7

"Debit balance against the Company..... £1 3 1

"The Exchange above referred to was signed *officially* by Mr. Radcliffe, countersigned by Mr. Dewar; entries made in our books, by order of Mr. McKinstry—himself a Director; so that it seems strange there should be any want of knowledge on the part of the Company, in reference to the matter, other than their not having received a statement from us of the figures; but Mr. McKinstry having promised to see the expenses on this bill paid, the matter has hitherto been left with him, and he has probably overlooked it.

"I feel myself as much under duty to see a small amount recovered, as a large one; and trusting that the above particulars are such as you require to authorize the covering of the trifling balance,

"I remain, dear Sir,

"Yours, faithfully,

"W. H. PARK."

"COMMERCIAL BANK OF CANADA,
"KINGSTON, 11th August, 1857.

Filed by
Plaintiffs
and De-
fendants.

"C. J. BRYDGES, Esq.,
"Managing Director, Great Western Railway Company.

"Sir,

"Referring to our recent interviews and preliminary arrangements for the Bank account of the Great Western Railway Company, at our Hamilton Branch, I beg to inform you that the matter has been submitted to our Board, and that the Directors have sanctioned the following agreement on the part of this Bank.

"The Great Western Railway Company will deposit with the Hamilton Branch of this Bank their total receipts of Cash and Cash items (less American Bank Notes, and funds collected at Buffalo and Detroit, as hereafter referred to).

"The Bank will receive all current Canada Bank Notes, and such Cheques and Drafts at sight, at three days, as are payable at places where the Bank has offices; and in the United States generally at par. Where the Bank incurs charge of commission in collecting cheques and drafts, payable at points where we have no office, the Company will reimburse to the Bank amount of commission so paid, should it be found to reach any considerable sum, when compared with total receipts; if not, then no charge will be made. If charge is made, entry will only be made once in each half-year for sake of convenience, and, meantime, accounts of the items will be kept.

"Receipts of the Company at New York will be transferred to Hamilton, by their agent, depositing same in Merchants' Bank, New York, to credit of this Bank; and entries will be made at Hamilton by the Company depositing certificate of deposit as so much cash. Receipts at Albany, say balances accruing to Great Western Railway Company, from New York Central Railroad, will be deposited by New York Central Railroad, to credit of the Bank, with Bank of the Interior, Albany; and certificate of deposit will be transmitted to Hamilton for entry as before. I saw Mr. Pruyn about this matter; and he expressed his entire willingness to remit in this way,—desiring only that you should instruct him to do so. Please address him, and your agent at New York, in conformity.

"The Great Western Railway Company will use funds in Bank, at Buffalo and Detroit, for payments, required to be made at these places—resulting balances not required for such local use, to be drawn for through the Bank.

"The Bank will honor, at par, cheques of the Company on Hamilton Branch, and all its offices—it being understood that no large cheques (say over £1000) will be presented at the smaller agencies, where no great supply of notes is held.

"The Bank will furnish drafts on New York for such payments as the Company may have to make in the United States (exclusive of Buffalo and Detroit) at par, when such payments cannot be made by cheque.

"The Great Western Railway Company, in making payments to employees and others, where cheques are not given to payees, will use the Bank's notes; and generally keep in view, so far as practicable, giving to the Bank the full benefit of circulation on disbursements of the Company.

"In consideration of this, and of the total receipts of the Company, as before stated, the Bank consents to give an overdrawing credit of £50,000 (say fifty thousand pounds currency), it being understood that such overdrawing credit, if used, is for temporary purposes, (say when receipts of the Company do not meet temporary disbursements), and not as a fixed loan for an indefinite period. The overdraft, however, to be available when required by the Company for ordinary expenditure of whatever nature.

"Interest will be charged on the Daily Balance when at debit; and, for convenience, will be charged once in each six months, at such date as may suit the accounts of the Company."

"Regarding Sterling Exchange, the Bank will take the Bills of the Great Western Railway Company on London at sixty days, at current New York rate of the day for 'first-class bills'. When the Company want to remit to London, the Bank will furnish their 60 days' Bills at one-half per cent. over-rate in New York. These calculations, reckoning one-fourth commission to be paid in New York and London on the transactions, are based upon the Bank receiving one-fourth per cent. profit as stated at recent interviews. Cash transfers in London, to the credit of the Bank for the use of the Company in Canada, will carry 1½ per cent. premium over New York rate, at time of entry in Canada, being equivalent to 75 days difference of time. Bills at 30 and 90 days will be subject respectively to advance and reduction of one-half per cent."

"The Bank Directors, believing the account of the Great Western Railway Company to be an important one, from the indirect value of receipts, and issue of our notes for disbursements, desire to conduct the account in the most liberal manner; and, with this view, have sanctioned the terms as stated. Hereafter should any change be found necessary, either on the part of the Company or of the Bank, such alteration can doubtless be considered by both parties in the same spirit."

"In all such agreements, as the present, it is usual to name some period for notice of withdrawal therefrom. This I overlooked when at Hamilton; and while we look upon the arrangement as a permanent one, it is but right you should have a condition attached in this respect, as to which please advise me."

"It is understood that the debt of the Great Western Railway Company to the Bank of Upper Canada, (say about £70,000), is covered, or to be covered by Bond at three months' date, to be retired by Bill on London. The Company will endeavour to settle Bond by Bill directly with Bank of Upper Canada, and without the intervention of this Bank. Should, however, the Company consider the rate offered by Bank of Upper Canada for such Bill unduly low, this Bank will interfere in the matter—negotiate the Company's Bills in New York, or elsewhere, if to better advantage—giving to the Company the benefit of the Bank's endorsement and connection without charge."

"But it is recommended that the Great Western Company should ascertain, on what terms the Bank of Upper Canada will settle, say fifteen or twenty days before maturity of the Bond, so that, should the Bank have to intervene, time may be had to negotiate the Bills without being forced to sell for any one packet."

"I believe the above covers all the material points in the agreement, and if you find them to be correctly stated, please submit to the Board, and confirm on the part of the Great Western Railway Company."

"I remain, Sir, your most obedient Servant."

(Signed)

C. S. ROSS, CASHIER.

(54.)

Filed by
Plaidin.

"GREAT WESTERN RAILWAY,

"HAMILTON, CANADA WEST, 12th August, 1857."

"W. H. PARK, Esq.,

"Commercial Bank."

"DEAR SIR,

"It will be a great convenience to us to get back our cheques from you as early as possible after payment. Can you not arrange for them to be returned us daily; if not, at least every two or three days?"

"Yours truly,

(Signed)

"W. C. STEPHENS."

"GREAT WESTERN RAILWAY MANAGING DIRECTOR'S OFFICE,
"HAMILTON, CANADA WEST, 14th August, 1857.

(55.)

Filed by
Plaintiffs.

"C. S. ROSS, Esq.,

"Cashier, Com'l Bank of Canada.

"SIR,

"I beg to acknowledge the receipt of your letter of the 11th instant, which I have this day submitted to the Board of Directors of this Company.

"On the part of this Company, I now beg to assent to the terms of the arrangement between the Commercial Bank and this Company, as set forth in your letter.

"The only point which varies from our conversation is, relating to the collection of cheques payable at those places where your Bank has no Agency. I understood our arrangement to be, that all cheques would be credited to us at par. It is, however, hardly necessary to make any difficulty about this matter, as I think you will find the amount so small that, as you say in your letter, it will be unnecessary to refer to it again.

"I will write to Mr. Prayn, and also to New York, to give the instructions you refer to.

"This Company has every hope and expectation that the arrangement now made will be a permanent one, and mutually advantageous to the Bank and the Railway Company; but as you make the suggestion, I would say, that the arrangement should be liable to be terminated upon six months' notice being given by either party.

"Your suggestion about coming to an understanding with the Bank of Upper Canada, in reference to the rate to be given for the bills to cover the Bond for £72,000 shall be attended to; so that you shall have, at least, a fortnight's notice, if it should become necessary, to negotiate such bills through our Bank.

"I am, Sir,

"Your obed't Servant,

(Signed)

"C. J. BYRDGES,

"Managing Director."

(56.)

Filed by
Plaintiffs.

"GREAT WESTERN RAILWAY MANAGING DIRECTOR'S OFFICE,
"HAMILTON, CANADA WEST, 31st August, 1857.

"DEAR SIR,

"Since making the arrangement with your Bank, in reference to our account, a careful estimate has been made of the probable position of this Company's finances, and in order that you may be aware fully of the probable state of our account with you, I enclose you, of course confidentially, a copy of the statement made up. We have put down the traffic at something considerably below what was realised last year, so that there can be little chance of error in the shape of assets.

"The only matter not included in our Statement of Liabilities, are compensations for deaths at the Desjardins accident, and the interest due the Government on their loan, which (the loan) we are now preparing to pay off.

"The Desjardins amounts it is impossible to estimate with any degree of accuracy, but the payments on that account cannot under any circumstances exceed £20,000 during the next six months. The interest due the Government on the 1st of January last, we retain as a set-off against the amount due us by the Post Office, which we cannot get settled. The interest due 1st July last is £28,643 15s. 6d. This amount we had arranged for our London Board to pay in England to Glynn & Co., but they deferred making the payment

until some arrangements in contemplation were completed, and the interest is now charged against us here by the Government. Our London Board intend to pay this amount, and will doubtless do so before many weeks; but my object in writing to you now is to know if you can arrange to make this payment for us to the Government here at once, and keep it as a special charge to be liquidated by a payment to the London Board. Your arrangements with that Bank and with the Government here will probably enable you to arrange this without any difficulty. It would seem from the enclosed statement that this would easily come within our arrangement for a credit of £50,000; but I wish it to be kept quite distinct from that, as our London Board have promised to pay this interest.

"Will you be good enough to let me have an early reply, as I leave this city for England on Monday next, and I am desirous of having this matter arranged before I leave.

"I am, dear Sir, yours truly,
(Signed)

"C. J. BRYDGES.

"C. S. Ross, Esq.,
"Cashier, Commercial Bank, Kingston."

(57.)

Filed by
Plaintiffs

"GREAT WESTERN RAILWAY OF CANADA,
"Gresham House, Old Broad Street, London, C. E., 2nd Oct., 1857.

"DEAR SIR,

"I am in receipt of your letter of the 14th ult., advising that you had made arrangements for paying the interest for us upon our loan from the Government.

"I am very glad to find that you have been enabled to do this for us. In the course of two or three mails you will receive advice of the payment of the sterling amount to the London Joint Stock Bank to your credit. Our Board has passed a resolution ordering this to be done, and you may depend upon its being carried out before I leave England.

"Financial matters seem to be in a terrible state in New York. One effect, I suppose, will be to retard the movement of produce, and this must keep our traffic down for a time.

"(Signed)
"Yours faithfully,

"C. J. BRYDGES.

"C. S. Ross, Esq."

"COMMERCIAL BANK OF CANADA,
"Hamilton, 29th December, 1857.

"THOMAS REYNOLDS, Esq.:

(58.)

"MY DEAR SIR,

Filed by
Defendants

"I return the memorandum referring to Detroit and Milwaukee matters, after making a copy for Mr. Ross, sent off to-night.

"I would not have time, however, to get a copy for myself without keeping it too long from you to return it; but you would confer a favor by allowing one of your clerks to make me one any time this week.

"In haste, yours faithfully,

"W. H. PARK.

"Please drop a memorandum in post for me, with the figures of interest. Say amount to be paid by us to Government on 2nd January."

**STATEMENT Showing the secured Indebtedness and Estimates for finishing the Line of the DETROIT and MILWAUKEE RAILWAY,
and Dates at which provision for payment must be made.**

DESCRIPTION.	January, 1887.	February, 1887.	March, 1887.	April, 1887.	May, 1887.	June, 1887.	July, 1887.	August, 1887.	September, 1887.	October, 1887.	November, 1887.	December, 1887.	Total to this Date, 1887.
State Tax, 1864, 1865, 1866, 1867, Duties on Rails due to Government as agreed, Duties on Rails now at New York and Interest.	\$10,000			\$10,000			\$6,732						235,732
Barlbert, for Land and Interest.	1,700			1,500									1,700
Phillips, ditto.				3,640									3,640
First, I. W. Tillman.	Payment postponed to 1889.												
Savings Bank.			5,000			5,000							10,000
Peninsular Bank.		2,500				5,000							7,500
H. Ledyard, for freight of iron on Protected Bills (C).					33,750	11,000			33,750				118,500
James Lee & Co. including damages.													21,000
Raynor & Co. Bank.		10,000		5,000			5,000						30,000
Merrill Bank.										10,000			10,000
Mutual Insurance Bank (C).		12,500	12,500							33,334			100,000
Duncan Sherman & Co.				33,333				11,000					57,333
Hardford Bank.			11,000			4,000							19,000
Greenville, Tallman, Ebby & Co.		8,250											8,250
J. L. Lyell, J. B. Walton { Engineers' Bills Working Expenses for Oct., Nov. and Dec., unpaid Sundry Incidentals, including interest on open Debts.	10,000	10,000	10,000	10,000									40,000
Interest on First Mortgage Bonds.	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	18,000
Interest on Second ditto.	4,000	10,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	72,000
Interest on Great Western Railway of Canada Mortgage.													
Interest on Interest Bonds.	3,000						4,000						7,000
Land and Right of Way.		4,250											4,250
Works and Buildings to carry Line to G. Haven.	15,000	15,000	15,000	15,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	360,000
Additional Rolling Stock.	45,200	85,820	74,398	85,473	181,755	56,500	84,565	57,500	70,250	50,834	133,005	110,250	1,035,545
Assets - Net Trans (estimated) Bills on London.	15,000	15,000	15,000	25,000	25,000	25,000	25,000	25,000	40,000	40,000	40,000	40,000	320,000
	80,200	70,820	69,398	60,473	156,755	81,500	69,565	32,500	30,250	10,834	91,005	70,250	765,545
	45,200	85,820	74,398	85,473	181,755	56,500	84,565	57,500	70,250	50,834	133,005	110,250	1,035,545

(a) The Balance due James Lee & Co. \$20,706, is set down for payment in 1888. (b) The Company were due 14th Nov., 1887, and it is intended to pay them in Feb. 1888, to prevent steps being taken by holders. (c) The Balance due Michigan Insurance Bk., \$27,400 is set down for payment in 1888. (d) These include provision for interest on further loans in Construction on account of work, etc. do.

(59.)
Enclosure
in Exhibit
88 and
filed by
Defendant.

(60.)

[TELEGRAPHIC MESSAGE.]

"C. A., New York,
"7th Jan., 1858.

Filed by
Defendant.

"C. S. Ross,

"Commercial Bank, Kingston:

"We want to give our acceptance for ten thousand dollars to Rayner & Clark, payable at the Merchants' Bank here, at 60 or 90 days sight, on account of Detroit and Milwaukee matters. It is very urgent that said acceptance should be discounted to-day, to save expense. Will you telegraph to Merchants' Bank on receipt of this, so that it may be done by them? Answer to us at St. Nicholas also.

"C. J. BRYDGES.
"T. REYNOLDS."

(61.)

"GREAT WESTERN RAILWAY,
"Hamilton, Canada West, 11th January, 1858.

Filed by
Plaintiff
and De-
fendants.

"C. S. Ross, Esq.,

"Commercial Bank of Canada, Kingston:

"DEAR SIR,

"We are glad to be able to report to you that we have made perfectly satisfactory terms with Duncan, Sherman & Co., and Lee & Co., in New York, whence we returned only late on Saturday.

"With Messrs Lee and the representatives of the Western Bank of Scotland, arrangements have been made, by which their claim on the Detroit and Milwaukee Railway Company will be satisfied in England by the issue of Great Western mortgage bonds, having three years to run, bearing interest at the rate of 6 per cent. per annum.

"As far as that claim is concerned, therefore, we shall not have to ask for any aid or intervention from you—a result with which, no doubt, you will be as well satisfied as we are.

"With Duncan, Sherman & Co. we have agreed that we will draw for the full amount of their claim, viz., \$100,000 00, on the English Board of this Company at 6 and 12 months at sight, in two equal amounts; and that as they are to deliver up their securities, we will place in their hands with our said drafts your letter of guarantee for their due acceptance and payment.

"We presume you will see no objection to this plan, and we are prepared of course to give you in exchange any counter guarantee here that you may deem necessary.

"With Rayner & Clarke, who had a claim for \$21,000, we settled by giving our acceptance of Mr. Trowbridge's draft on this Company, payable at the Merchants' Bank, in New York, as follows, viz.:

\$11,000, due 15th March, 1858;

3,000, " 15th June, "

7,000, " 17th " "

Each being dated from Detroit, 8th December, 1857, signed by C. C. Trowbridge, Treasurer of the Detroit and Milwaukee Company, and accepted by us as Managing and Financial Directors respectively of the Great Western of Canada Company.

"Will you oblige us with a few lines, giving your assent to the proposed guarantee to Detroit and Milwaukee Company, and give instructions to the Merchants' Bank at New York, also for the protection of these bills to Rayner & Clarke when at maturity.

"The rest of the Detroit and Milwaukee programme, which Mr. Reynolds showed you at Toronto, will be closely adhered to.

"Lee & Co. give up securities on receipt of an order on the English Board for the Bonds.

"We are, dear Sir, faithfully yours,

"C. J. BRYDGES,

"Managing Director.

"THOS. REYNOLDS,

"Financial Director.

"P.S.—Thanks for your telegraph to the Merchants' Bank; but as Mr. Silliman declined to act on telegraph message, and Rayn & Clarke's wants were urgent, they obtained discount of our acceptance elsewhere."

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 11th January, 1858.

(62.)

Filed by
Defendant.

"THOMAS REYNOLDS, Esq.

"DEAR SIR,

"I am much obliged for your note in reference to the N. Y. C. balance, and am glad that I was in error.

"I am somewhat disappointed to find that the money for the employees Detroit and Milwaukee Railway Company has all been taken in large notes. If we are to have any chance for circulation, it will be by assorting with notes of small denomination. Such at least is our experience of circulation.

"Yours faithfully

"W. H. PARK,

"Manager."

"GREAT WESTERN RAILWAY,"

"HAMILTON, CANADA WEST, 11th January, 1858.

(63.)

Filed by
Defendant.

"W. H. PARK, Esq., Commercial Bank,

"MY DEAR SIR,

"I am much annoyed to find that ten-dollar bills have been taken to Detroit for the payment of the Michigan Central wages; but as I believe the staff is three months in arrear, I dare say they will go all right, and have a good circulation.

"I have, however, telegraphed to Mingaye to get from Pascook & Gray at Windsor, and Homan at Detroit, all the small Commercial Bank paper they have for payment to the Michigan Central, and to hand them ten-dollar bills in exchange.

"Whatever of these he hands to these parties will of course come up in a day or two, and the one and two dollar bills he may get from them will of course have the circulation in lieu of those of ten dollars each.

"I was so anxious that no hitch should occur in this matter, that I begged Mingaye to go up to get the notes himself. I find, however, he sent a clerk for them.

"I have written a touching appeal to the New York Central, and I hope we shall get some cash from them ere long.

"I hear by telegraph that the Grand Trunk have paid us \$4000, and that about \$7000 more will be received from them to-morrow.

"Yours, my dear Sir, very sincerely,

"THOS. REYNOLDS.

"P.S.—The \$10,000 sent to-day to Detroit are in part payment of our balance due to the Michigan Central Railway Company, and the Treasurer undertook to use the bills in paying the staff. This is quite distinct from Detroit and Milwaukee matters, although by your note you appear to think otherwise.

"I enclose copy of my letter to Mr. Ross to-day."

(64.)

Filed by
Defendant

"COMMERCIAL BANK OF CANADA,
"KINGSTON, 13th January, 1858.

"C. J. BAYDOES, Esq.,
"THOMAS REYNOLDS, Esq.,
"Great Western Railway Company, Hamilton.

"GENTLEMEN,

"I am favoured with your letter of 11th inst., and note the settlements arranged with Messrs. Lee & Co. and Duncan, Sherman & Co.

"It is not in the power of the Board to guarantee acceptance and payment of the bills intended to be given by you to Messrs. D., S. & Co. Such a proceeding would be altogether *'ultra vires'*, and the Bank's guarantee can only be got in a shape of endorsement of bills. I need not say that our endorsement of bills at such dates would be very prejudicial to our standing abroad, while we were not the owners. We are thus unable to meet your views, and the only thing we can do, apparently, is to send you the enclosed letter to Messrs. D., S. & Co., which, while it is no guarantee, and simply an opinion, may be of use in effecting other arrangements.

"After receiving your telegraph, the other day, I wrote to Mr. Silliman, explaining our position with the Great Western Railway Company, and apologising for troubling him out of the usual course of business. On Tuesday evening I had a telegraph from him, stating the acceptance was \$11,000, not \$10,000, and asking if that was all right? I replied in the affirmative, and intimated he had cashed that one for us for the Merchants' Bank. However, Mr. Park will take memorandum of maturity of the three acceptances, \$11,000 15th March, \$8,000 15th June, \$7,000 17th June, and remit for them in due course.

"I am, Gentlemen,

"Yours faithfully,

(Signed)

"O. S. ROSS,

"Cashier."

"COMMERCIAL BANK OF CANADA,

"KINGSTON, 13th January, 1858.

(65.)

Enclosure
in Exhibit
No. 44 &
filed by
Defend'ts.

"MESSRS. DUNCAN, SHERMAN & Co.,

"New York.

"GENTLEMEN,

"Referring to recent interviews with your house and Messrs. Brydges and Reynolds, of the Great Western Railway Company, I am informed that it was proposed to arrange the matter in hand by bills of the Company, on London, at 6 and 12 months' sight, guaranteed acceptance and payment by this Bank. I have written to Messrs. Brydges and Reynolds, that the Board cannot sanction guarantee of this or anything else by the Bank, and that our guarantee could only be given in shape of endorsement of Bills; while, of course, it would never do that our endorsement should appear on Bills at such dates which the Bank did not hold. At the same time, I have no hesitation in stating, that we have no doubt the Bills in question, if taken, will be accepted and paid at maturity; and, in confirmation of this opinion, I may add, that the credit of the Great Western Railway Company with us is \$200,000, besides Bills of Exchange on London; and this will show you that we consider the Company beyond question.

"I am, Gentlemen,

"Your most obedient,

(Signed)

"C. S. ROSS,

"Cashier."

"GREAT WESTERN RAILWAY,

"HAMILTON, CANADA WEST, 16th January, 1858.

(66.)

Filed by
Defend'ts.

"C. S. Ross, Esq.,

"Commercial Bank of Canada,

"Kingston.

"DEAR SIR,

"We have to acknowledge the receipt of, and thank you for, your letter of the 13th, together with the one for Messrs. Duncan, Sherman & Co., of New York, which it contained.

"We have forwarded the said letter to those Gentlemen, but we hardly expect it will satisfy them, to induce them to give up the Bills which they hold, in exchange for our Drafts, at 6 and 12 months, on the English Board. It may therefore be necessary to make some other arrangement that will satisfy them; and if your presence in New York should be found necessary to aid in accomplishing the object in view (of which we will give you early notice, both by post and telegraph), we hope you will not object to meet us at that place.

"We go to Detroit, on Monday, to complete arrangements with the Detroit and Milwaukee Company, and hope to get back here by Thursday next.

"In reference to the remarks in your letter of the 13th, on the subject of Mr. Silliman's telegraph to you, we beg to observe, that the telegraph you mention having received on Tuesday evening last, cannot

have reference to any payment by the Merchants' Bank, on our account, for, as Mr. Silliman declined to set on the message you sent him, while we were in New York, we handed Messrs. Rayner & Clarke our acceptances in discharge of their claim on the Detroit and Milwaukee Company (as stated to you in our last letter), and those Gentlemen were to obtain discount elsewhere.

"We shall request Mr. Silliman to give a good account of the reputability of the Bills, if enquiries should be made, and this, upon your telegraphic message, he undertook to do.

"We conceive, therefore, Mr. Silliman's telegraph to you, of Tuesday last, was in consequence of some enquiry having been made as to the reputability of the names on the Bills; and as a Bill of \$11,000 was exhibited, while your message to him spoke of one of \$10,000 only, he probably wished you to be made aware of the variation in the amount. Be this as it may, we did not ask Mr. Silliman to come under advances, or to discount the Bill, after his first objection to act on your telegraph, and if he has done so since we left, although it is all safe and right, he has done it on his own, not on our account.

"We are, dear Sir,

"Yours very truly,

"C. J. BRYDGES,

"THOS. REYNOLDS."

(67.)

Filed by
Defendant.

"C. J. BRYDGES, Esq.

"THOS. J. REYNOLDS, Esq.

"GENTLEMEN,

"I am favoured with your letter of 16th inst., and note its contents.

"As I remarked in my last, it was not in our power to grant the guarantee you asked, and even had there not been the obstacle named, we are sure you would not have wished it when the proceeding would have been attended with certain injury to the interests of the Bank.

"I am quite ready to go to New York, for the purpose of negotiating an amount of our exchange sufficient to cover your payment to Duncan, Sherman & Co., and to make such payment. We assume my presence in New York to assist in negotiating any other settlement is not wanted. It would undoubtedly prejudice a favourable settlement were I to appear with you. If required in New York, please advise me early.

"Mr. Silliman discounted the \$11,000 acceptances referred to, and while, no doubt, he would not have done so to his own prejudice; yet, I presume, since we asked it, this may have influenced him.

"I am, Gentlemen,

"Yours faithfully,

"C. S. ROSS,

"Cashier."

"DETROIT AND MILWAUKEE RAILWAY PRESIDENT'S OFFICE,

"HAMILTON, 20th February, 1858.

(88.)

Filed by
Deitchfield.

"MY DEAR SIR,

"On the 4th proximo, an acceptance by Mr. Brydges and me, of draft of C. C. Trowbridge, of \$1,000, will mature, payable at the Merchants' Bank at New York.

"I enclose Cheque for the amount, say Three Thousand Dollars; please to see that due honor is provided for the Bill.

(Signed)

"THOMAS REYNOLDS.

"P.S.—I further enclose Cheque for \$13,034 12, to provide for our acceptance to C. C. Trowbridge, in favour of H. K. Banger, due at the Merchants' Bank at New York, on the 3rd proximo.

(Signed)

"T. R.

"W. H. PARK, Esq.,

"Commercial Bank."

"GREAT WESTERN RAILWAY,

"HAMILTON, CANADA WEST, 1st March, 1858.

(89.)

Filed by
Plaintiff.

"W. H. PARK, Esq.,

"Commercial Bank.

"DEAR SIR,

"I beg leave to hand you enclosed Sterling Draft, by Mr. Brydges, and one on the English Board of this Company, at ninety days sight, for £15,120 16s. 7d., to be carried to the credit of the Detroit and Milwaukee account, at the exchange of 108, or \$73,000.

"I am, dear Sir,

"Faithfully yours,

"THOS. REYNOLDS."

"GREAT WESTERN RAILWAY,

"HAMILTON, CANADA WEST, 2nd March, 1858.

(90.)

Filed by
Plaintiff.

"W. H. PARK, Esq.,

"Commercial Bank.

"DEAR SIR,

"In exchange for the enclosed Cheque for \$3,822 76, oblige me with a sight order on New York, in favor of Messrs. Duncan, Sherman & Co., of that City for said sum of \$3,822 76.

"I am, dear Sir,

"Faithfully yours,

"THOS. REYNOLDS."

(71.)

Filed by
Plaintiff.

"W. H. PARK, Esq.,

"Commercial Bank.

"DEAR SIR,

"I enclose you Cheques as follow, dated 18th inst., \$11,163 11, for which oblige me with Cash order on New York, in favour of the Hartford Bank, due 18th inst. :—

Cheque dated 15th inst.	\$11,000 00
" 22nd "	5,114 84
" 23rd "	2,082 46

"The last three to provide for our acceptance, maturing at the Merchants' Bank, New York, on the 18th, 25th and 26th inst., as already advised.

"I am, dear Sir,

"Yours truly,

"THOS. REYNOLDS.

"P.S.—On Monday next, we shall require for D. & M. wages, \$35,000, or thereabouts; please prepare."

(72.)

Filed by
Plaintiff.

"C. S. Ross, Esq.,

"Secretary, Commercial Bank of Canada, Kingston,

"DEAR SIR,

"In proceeding with our Detroit and Milwaukee engagements, we find that it would be a great advantage to us, if we had at times the means at our disposal (beyond our ordinary resources) of making settlements with parties whose claims are put down for payment at a distant date. To enable us to make such settlements, and to economise the funds at our disposal (which would be one effect of our being in a position to do so), we have to request that you will lay before your Board our request to be favoured with a credit to the extent of say \$100,000, if necessary, on our joint Detroit and Milwaukee account here.

"The Balance against the Great Western Company is now so much reduced (and will continue steadily to decrease), that we imagine you will have no objection to the arrangement here proposed; and we may mention to you, as some inducement to you, that the notes to be drawn, under such a credit, would be sent down to circulate in the State of Michigan, where the not inconsiderable amount of your paper already sent by us for payment of the indebtedness of the Detroit and Milwaukee Company continues to circulate.

"We desire to adhere as nearly as we can in drawing on our English colleagues to the amounts set down in the schedule we prepared for the gradual completion of the works on the D. and M. Line. And this proposed credit would enable us to do so without the necessity of postponing claims which could, if promptly settled, be so much more satisfactorily arranged.

"Do us the favor to inform us of the decision of your Board at your earliest convenience.

"We are, dear Sir, yours faithfully,

(Signed)

"C. J. BRYDGES,

"THOS. REYNOLDS"

"COMMERCIAL BANK OF CANADA,

"KINGSTON, 1st April, 1858.

(73.)

Filed by
Plaintiff.

"GENTLEMEN,

"I have received and submitted to the Board, to-day, your letter of the 30th ult.

"The Directors have taken the subject matter of that letter into consideration, with the disposition to meet your wishes as far as can be done consistently with the demands upon us from other customers, and the requirements of the Bank as to periods for covering London account, &c.; and also, under the impression, that any amount on the D. and M. account, not covered by bill at the end of each month, will be (practically) neutralised by a corresponding reduction of general account, under the limit of \$50,000. We also understand that, so far as possible, the money advanced will be circulated in Michigan, as hitherto.

"Upon the above basis and understanding, the Board authorize a limit of \$50,000 uncovered at end of month on the D. and M. account up to 1st July; and thereafter, if required, an amount not exceeding \$100,000: all such advances to be repaid on or before 1st December next; in other words, that on 1st December next, the D. and M. account shall be covered in full by exchange or cash.

"We assume that the aggregate amount of the D. and M. account, uncovered at each month's end, and of the general account, will not exceed \$200,000; but in case of emergency, we shall not mind an excess of \$25,000 @ \$40,000 for a short time.

"I suppose this will meet the requirements of the Company.

"I am, Gentlemen,

"Yours faithfully,

(Signed) "C. ROSS,
"Cashier.

"C. J. BRYDGES, Esq.,

"THOS. REYNOLDS, Esq.,

"Directors Great Western Railway Co.,
"Hamilton"

"COMMERCIAL BANK OF CANADA,

"KINGSTON, 9th April, 1858.

(74.)

Filed by
Defendant.

"DEAR SIR,

"I returned from New York late this afternoon, and take the earliest opportunity of addressing you, to advise that Mr. Park communicated your wish or opinion, that it would be injudicious for me to see Mr. McClelland about the D. and M. Bonds. On this I should have acted, but was obliged to see Mr. Fleming (late Manager, and now one of the liquidators,) about a property here held for the Western Bank, and sundry other things connected with our late account.

"When these matters were discussed, Mr. Fleming said he would be obliged by my opinion about other Canadian and American affairs he had in hand, and allusion was made to a variety of things. I could not, of course, avoid answering his questions; and afterwards, allusion was made to the D. and M. Bonds. Mr. McClelland then said, you had been asking for same: and I asked at what price they held them, as I held some, and might take a few more, if at a price to suit? Mr. Fleming then said, 'What did yours cost?' I replied, '56 per cent. with accrued coupons included.' He said he would not think of selling a few; that they

(the M. Bank) held a large amount *absolutely*; that they were quite good, and would be placed in Glasgow or London without difficulty, at par, in a year or so; that the liquidators could borrow at 4 per cent, and thus save in that way by holding over. He said much more, showing me he quite understood their value. I referred to quotation of 64 per cent and 57½ for 7's, the two days previously, and said that I thought the 8's could be got about 55 per cent., with May coupons from Contractors. He then said, 'Would you make any proposal for any sum of them?' I replied that that would require some consideration, and that I must see Mr. Silliman, while I thought I might venture to act for you at a price such as you could buy for elsewhere. I saw Mr. Silliman, and returned, saying to Mr. Fleming, I could take \$50,000 if he would not sell \$30,000 at 55 per cent., including coupons. He said that Mr. McClelland and himself had discussed the matter again, and decided not to sell any, but hold all, take all to Glasgow, and hereafter get them placed at par, 'through friends and *Great Western Shareholders*,' as he expressed it. Of course, nothing was to be done, and there the matter rests. I feel that I made no blunder, since the matter was introduced, in what occurred, and it was evident no offer could have got them. The result is, that these people will make them known in London, and make a market for them.

"I have felt it due to you and to myself, to inform you of what passed, and that your expected purchases have not been marred through any action of mine.

"It occurs to me that it might be judicious to hold off purchasing any more at Detroit for a month, to let the holders there see New York quotations, and that demand from us in Canada has ceased apparently. Pray, consider the expediency of such a course.

"I also think it will be well your friends in London should by-and-by report favourably to enquirers, for the sake of all concerned. Mr. Park may have told you we offered to arrange for payment of the coupons in London, in 1856; but my letter was not replied to.

"It has also occurred to me, that it is needless to send the coupons on those held by Mr. Campbell and myself to New York for payment. It would save you the commission and New York funds to send them to Hamilton. Shall I do so?

"Yours faithfully,

"C. S. ROSS."

"THOS. REYNOLDS, Esq."

(75.)

Filed by
Plaintiff.

"GREAT WESTERN RAILWAY,
"HAMILTON, CANADA WEST, 14th April, 1853.

"C. S. ROSS, Esq.,

"Cashier, Commercial Bank of Canada, Kingston,

"DEAR SIR,

"Just on the eve of our departure for Detroit and the West, whence we returned only last night, we had the pleasure of receiving your favour of the 1st instant, in answer to ours of the 30th ultimo, consenting to a credit to our Detroit and Milwaukee account here to the extent of \$50,000 up to 1st July, and \$100,000 thereafter, if required, and upon the conditions set forth in your said letter.

"The conditions are entirely satisfactory to us, with the exception of the one requiring the D. and M. account to be covered in full on or before 1st December next.

"We are anxious to make our arrangements to cover the account on the 31st MARCH, next year; but if the arrangements of the Bank render it necessary that we do so earlier, we will take care to do so.

"We have every expectation that within six months from this date the Great Western account will be in a condition not to require the open credit which it at present enjoys; and if this expectation should be realized we presume there would be no objection on the part of the Bank to carry the D. and M. credit on to the 31st March next.

"We are, dear sir, faithfully yours,

(Signed)

"C. J. BRYDGES,
"THOS. REYNOLDS."

"COMMERCIAL BANK OF CANADA,
"KINGSTON, 15th April, 1858.

(76.)

Filed by
Plaintiffs

GENTLEMEN,

"I am favoured with your letter of 14th instant. The stipulation for having any advances on account of the Detroit and Milwaukee credit account covered as on 30th November next, was made simply for Bank reasons, which render it necessary that we shall cover our account in London in December at latest; and then it is useless incurring a commission by selling exchange to meet balances, and having to buy to cover it in the same month. Possibly you may so arrange as to have no payments in December, and if needed I presume the Board would re-open credit 1st January, to be closed by 31st March, and thus almost meet your proposed requirements. It is possible we might have funds in London in December, which would render it easy to carry on the credit in December, but we could not now speak definitely on that point; and it will be well you should provide otherwise for that month, or postpone payments to January.

"I am, Gentlemen, your most obedient Servant,

(Signed)

"C. S. ROSS,
"Cashier."

"C. J. BRYDGES, Esq.,

"THOS. REYNOLDS, Esq.,

"Directors G. W. Railway Co., Hamilton."

"GREAT WESTERN RAILWAY,

"HAMILTON, CANADA WEST, 30th April, 1858.

(77.)

Filed by
Plaintiffs

"W. H. PARK, Esq.,

"Commercial Bank.

"DEAR SIR,

"I enclose you our Exchange on England at 30 days' sight, for £6,500 sterling, for the credit of the D. and M. account.

"The average rate of Exchange on England for 60 day drafts, appear to be 108½, and as the enclosed drafts are at 30 days, I look for 109½, at least.

"Please inform me to-day, the rate you adopt, and the equivalent in dollars and cents put to credit of the account.

"I am, Dear Sir,

"Yours faithfully,

"THOS. REYNOLDS."

(78.)

Filed by
Defend'ts

"THOS. REYNOLDS, Esq.,

"Financial Director.

"DEAR SIR,

"That you may be provided in good time for the American part of the Bridge Rent, I enclose my draft on H. K. Sanger, for \$10,000, and I hope you will succeed in getting such funds from him as will serve to make the payment.

"The interest we will adjust next week.

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 22nd May, 1858.

"I am, dear Sir,

"Yours, truly,

"W. H. PARK,

"Manager."

"Great Western Railway Company,

"Hamilton."

(79.)

Filed by
Defend'ts

"THOMAS REYNOLDS, Esq.,

"Vice-President,

"DEAR SIR,

"I beg to hand you herein, as requested, Exchange on New York for ten thousand dollars, and twenty-four thousand dollars, for which please send cheque as usual.

"I am, dear Sir,

Yours very truly,

W. H. PARK,

"Manager."

"Detroit and Milwaukee Railway Company,

"Hamilton."

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 29th May, 1858.

(80.)

Filed by
Defend'ts

"THOMAS REYNOLDS, Esq.,

"Vice-President,

"DEAR SIR,

"I beg to enclose, paid, your acceptances retired by Merchants' Bank, \$2,000, \$500, \$1,000, \$1,500, \$2,000, \$5,105 47 (C. J. T.),

"And remain, dear Sir,

"Yours truly,

"W. H. PARK,

"Manager."

"Detroit and Milwaukee Railway Company,

"Hamilton Office."

"COMMERCIAL BANK OF CANADA,
"Hamilton, 29th May, 1858.

(81.)

Filed by
Defendants

"THOMAS REYNOLDS, Esq.,
"Finance Director,

"DEAR SIR,

"I beg to hand you herein, at debit of your Company, the following Exchange:—

No. 6688. Bank on Merchants' Bank.....	\$32 58
" 6890. " " "	1250 00
B. R. No. 433. Lake Ontario Bank, Oswego, on the Bank of Commerce	1967 42
" No. 434. Lake Ontario Bank, on Bank of Commerce	3000 00
" No. 435. Hamilton, Davis, & Co., on Bank of N. America	5000 00
	\$11,250 00

"And am, dear Sir, yours truly,

"W. H. PARK,

"Manager."

"Great Western Railway,
"Hamilton.

"GREAT WESTERN RAILWAY,

"HAMILTON, CANADA WEST, 31st May, 1858.

(82.)

Filed by
Plaintiffs

"W. H. PARK, Esq.,
"Commercial Bank.

"DEAR SIR,

"I enclose note for \$17,805 58 for credit of D. and M. account.

"Mr. Cockayne will present cheque for \$17,540 40, in exchange for which, please to hand him marked notes to be paid to the State Treasurer of Michigan, as arranged.

"Mr. O. Cockayne can, if you like, cash any other cheques you may wish to draw on Sanger, and bring you up the notes to-morrow.

"You may as well draw the current funds we have paid in to your credit with him, and if you agree, please hand Cockayne a cheque. The amounts given in the tickets I showed you are as follows:—

Paid on 21st May.....	\$1,650
" 22nd "	835
" 24th "	396
	\$2,881

"I have telegraphed to Detroit to ascertain the amount paid in since 24th, and if I get a reply in time to communicate with you before Mr. Cockayne leaves (1 P.M.), I will do so, in order that, if so disposed, you may draw a further amount on Sanger.

"I am, dear Sir,

"Faithfully yours,

"THOS. REYNOLDS."

(83.)

Filed by
Defend'ts.

"THOS. REYNOLDS, Esq., Vice-President:

"DEAR SIR,

"I beg to hand you herewith D.2812 acceptance of Mr. Brydges and yourself, in favor of H. A. Fuller & Co. for \$10,000, and D.3893 acceptance as above in favor of Nelson P. Stewart for \$25,000; in exchange for which be pleased to send me the Company's cheque.

"I am, dear Sir, yours truly,

C. H. SORLEY,
"Accountant."

"Detroit and Milwaukee Railway Company,
"Hamilton."

(84.)

Filed by
Defend'ts.

"MESSRS. C. J. BRYDGES, President, and
THOMAS REYNOLDS, Vice-President,
Detroit and Milwaukee Railway Company,

"GENTLEMEN,

"I am in receipt of your favour of this day's date, with list of your bills maturing at Merchants' Bank, in November, amounting to \$33,000 40c.

"I have advised our agents, in advance, to protect these bills; and for additional security I will forward our Exchange in retirement four days previous to their maturity.

"I am, Gentlemen, yours very truly,

W. H. PARK,
"Manager."

"Hamilton."

(85.)

Filed by
Defend'ts.

"C. C. TROWBRIDGE, Esq.,
"Secretary,
"Detroit and Milwaukee Railway Company,

"DEAR SIR,

"A. H. Campbell, Esquire, one of the Directors of this Bank, visits Windsor in connection with the intention of the Bank to open an agency there; and as Mr. Reynolds has doubtless mentioned to you his purpose

"COMMERCIAL BANK OF CANADA,
"HAMILTON, 16th September, 1858.

"COMMERCIAL BANK OF CANADA,
"Hamilton, 29th October, 1858.

"COMMERCIAL BANK OF CANADA,
"HAMILTON, 4th November, 1858.

of arranging with your Board for a transfer of the account of the Company to Windsor agency, when that is opened, Mr. Campbell is naturally desirous of making your acquaintance, and I beg therefore to introduce him.

"I am, dear Sir, yours truly,

W. H. PARK,
"Manager."

"Detroit."

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 8th November, 1858.

(86.)

Filed by
Defendant.

"C. C. TROWBRIDGE, Esq., Sec'y,

"Detroit."

"DEAR SIR,

"Your favor of the 5th instant to Mr. Reynolds is received, with inclosures, as stated. Proceeds of note sent your care, for Mr. Blumburgh, per Express, Saturday.

"Yours, respectfully,

W. H. PARK,
"Manager."

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 17th November, 1858.

(87.)

Filed by
Defendant.

"C. C. TROWBRIDGE, Esq., Sec'y,

"Detroit."

"DEAR SIR,

"Your Financial Director requests us to forward proceeds of two notes given Hayden & Ross, in settlement of contract, which we have done, addressing the parcel, per to-day's Express, to your care, containing \$3,000 95.

"I am, dear Sir,

"Yours truly,

W. H. PARK,
"Manager."

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 27th November, 1858.

(88.)

Filed by
Defendant.

"C. C. TROWBRIDGE, Esq.,

"Secretary,

"DEAR SIR,

"Herein I enclose, at suggestion of Mr. Reynolds, two certificates of Stock, standing in the name of N. P. Stewart, Esq., for which Mr. Reynolds says you will give me new certificates in my name, as manager, on the

authority of Mr. Stewart's letter herein. I shall be glad also to receive the Interest Bond for the interest accrued to 1st Sept. If you can send me these by *first chance*, after receipt of this, I shall be much obliged.

"I am, dear Sir, yours truly,

"W. H. PARK,
"Manager."

"Detroit."

(89.)

"WEDNESDAY EVENING, 15th Dec., 1858.

Filed by "C. S. Ross, Esq.,
Defend'ts.

"MY DEAR SIR,

"We have just closed a very agreeable interview with Mr. Reynolds. Mr. Campbell will tell you all when he returns. Meantime, I may say, that we made up our minds to ask him for a formal letter, to put the D. and M. overdraft in business shape, as one with the G. W. R., and it will be given in course. I will forward it to you, retaining copy. We also have a virtual assumption of the Government difference; at least, Mr. R. says 'we are in communication with them,' and you (the Bank) just 'keep apart.' Owsn that they saved the money, as per my letter of 2nd January last.

"Faithfully yours,

"W. H. PARK."

(90.)

Filed by
Plaintiffs.

"GREAT WESTERN RAILWAY,
"HAMILTON, CANADA WEST,
"16th December, 1858.

"W. H. PARK, Esq.,
"Commercial Bank,

"DEAR SIR,

"With reference to the conversation which took place yesterday between you and Mr. Campbell and Mr. Reynolds, upon the subject of the Detroit and Milwaukee Railway Company's account with the Commercial Bank, we beg leave to state, that the Great Western Company holds itself liable to the Commercial Bank for all overdraft on the D. & M. Company's account with the said Bank.

"This is quite understood by us; but as you expressed a wish to have it placed on record, we now do so by means of this letter.

"Our D. and M. plans were so fully discussed between you and Mr. Reynolds yesterday, that we do not deem it necessary to advert to them now.

"We are, dear Sir,

"Yours, very truly,

"C. J. BRYDGES,
"Managing Director, G. W. R. Co.

"THOS. REYNOLDS,
"Finance Director, G. W. R. Co."

"GREAT WESTERN RAILWAY,
"HAMILTON, CANADA West, 26th Jan'y, 1856.

(91.)

Filed by
Plaintiff.

"C. S. Ross, Esq.,

"Cushter, Commercial Bank of Canada,
"Kingston."

"DEAR SIR,

"When we had the pleasure of seeing you last week in Detroit, it was arranged that we should supply you with Exchange on England for the first mail in February.

"Our letters from London, received on Monday last, contain rather urgent requests that we delay drawing for a few months, until a temporary pressure, under which the Board there is at present suffering, shall have been relieved by the issue of the Company's Bonds, which, however, is progressing very slowly, owing to the stagnation of business on this side, and the consequent decrease in our traffic receipts.

"Of course, if you require the promised Exchange we must supply it; but as money is generally rather over abundant, it has occurred to us that it might be satisfactory to your Board to take, instead of Exchange on England, a short Bond, under the seal of Great Western Co., payable here, say on 1st June next, for Ten or Twenty Thousand Pounds, (the same as the one to be issued to Capt. Ward,) in relief of the Detroit and Milwaukee account; the understanding being, that if our Great Western balance shall, at the maturity of the Bond, be insufficient to retire it, Exchange on England shall then be had recourse to, for the purpose.

"Will you do us the favor to give this proposal your consideration, and inform us at your early convenience of the decision of your Board with reference to it.

"We are, dear Sir,

"Yours faithfully,

(Signed)

"C. J. BRYDGES,
"THOS. REYNOLDS."

"COMMERCIAL BANK OF CANADA,

"KINGSTON, 28th January, 1856.

(92.)

Filed by
Plaintiff.

"GENTLEMEN,

"Your favor of 26th inst. is before me, and has had our best consideration.

"I need not again assure you of our desire to meet your wishes on all occasions when it can be done without serious detriment to our general interests, and it is in that spirit we view your present application.

"So far as the Bank is concerned, the matter stands thus:—our London account shows balance of £42,000 sterling against us, and there are sundry dividends, &c., to come in, making it at least £50,000 sterling. The cashing of Bond for Mr. Ward will add, say £20,000 sterling to this, as we must sell sterling to meet it. We therefore do want these monthly £10,000 sterling from you, account D. and M. account, and there are really no produce bills whatever this winter to come in in summer, and give us sterling to cover account in June, it is not in our power to make any arrangement which would preclude our having all that is available for that purpose.

"By last Hamilton returns, I observe the D. and M. account shows a balance of \$406,000, and we have, probably, \$150,000 of D. and M. notes under discount. The balance of account is largely in excess

of authorized credit, and of course bills maturing, held by us, or by others, have to be protested, and will add to the amount. On mature reflection, we cannot defer sterling payments beyond the following periods:—say, let us have Bonds of G. W. R. Co., \$100,000 falling due 1st May, \$100,000 maturing 1st June, to be credited D. and M. account, and thus reduce balance, and to be paid by sterling bills, when due, at 3 or 4 months sight. Then, on 15th June, we assume that G. W. R. general account will show balance at credit, which would be applied in reduction of D. and M. account to authorized limit of £50,000, or be remitted for dividend. Transfer by cheque could be made, or we could give our bill at 60 days for the equivalent of credit balance of general account, taking D. and M. sterling bill for enough to reduce D. and M. balance to £50,000, on the supposition we can afford to have that amount then unpaid, as to which, while I hope we can, I should not feel justified in committing the Bank at this moment.

"The reason why we must have part 1st May, is that we have then to pay cheques for duties to Bank U. C., and must not shew such a heavy debt to London.

"I assume that if we do not call for the monthly bill of £10,000 sterling, on 1st February, March and April, the D. and M. cheque, beyond notes held by ourselves, will be small. We could not pay much and forego taking the bills until June.

"Please advise concurrence in this arrangement, that we may shape our matters accordingly.

"I am, Gentlemen,

"Yours, faithfully,

(Signed)

"C. S. ROSS,

"Cushier.

"C. J. BAYDERS, Esq.,

"THOS. REYNOLDS, Esq.

"P.S.—I go to N. York on Monday, and hope to return Friday next.

"C. S. R."

(93.)

Filed by
Plaintiffs
and De-
fendants.

C. S. ROSS, Esq.,

"Cashier, Commercial Bank of Canada,
"Kingston."

"DEAR SIR,

"We have to acknowledge the receipt of your favor of the 28th instant, in answer to ours of the 26th, on the subject of the Detroit and Milwaukee account.

"The desire of the Bank to extend to this Company every reasonable facility in reference to their banking business, has been amply manifested to us; and we beg to offer our best thanks for the liberal manner in which our wishes have been at all times considered and responded to by your Directors and yourself.

"The plan for covering the D. and M. account, suggested in your letter now under acknowledgment, shall be worked up to; but, as we presume it will be the same to the Bank if Capt. Ward's bonds for about \$100,000, for re-rolling iron, are made payable on the 1st May next, instead of the 20th January, 1860,

"GREAT WESTERN RAILWAY,
"HAMILTON, CANADA WEST,
"31st January, 1860.

and one of the \$100,000 bonds for the D. and M. account is made to mature 20th January, 1860, and the other on 1st June, 1860. We have to-day issued to Capt. Ward for \$60,000, due 1st May, 1860, on account. The accounts not being yet quite agreed, a bond for the balance will have to be issued on our return from Detroit, to which place we are now going.

"We shall also, on our return, hand Mr. Park the two bonds of \$100,000 each for D. and M. account—one due 1st June, 1860, the other, 20th January, 1860,—and it is understood, that if on the date of maturity of these, or the bonds to Capt. Ward, the G. W. Co.'s account has not at its credit sufficient to retire them as they respectively fall due, Exchange on England shall be supplied for that purpose.

"This slight modification, although it will not alter or affect the totality of the plan your letter sets forth, will suit us better, as we are desirous to delay pressing on our colleagues in England for funds until some of the present depression shall have passed away.

"We are, dear Sir,

"Yours faithfully,

(Signed) "C. J. BRYDGES,

"Managing Director, G. W. R. Co.

(Signed) "THOS. REYNOLDS,

"Financial Director, G. W. R. Co."

"COMMERCIAL BANK OF CANADA,
"KINGSTON, 7th February, 1860.

(64.)

Filed by
Debnad's.

"GENTLEMEN,

"Your valued favor of 31st ultimo, was duly received in my absence at New York.

"The proposed modification of the arrangement sketched out in my letter of 28th ultimo, being such as would not suit us, Mr. Campbell endeavoured to have the issue to Mr. Ward, of the bond maturing 1st May, deferred; but he did not succeed, Mr. Ward's wants precluding delay, and Mr. McDonald had to cash it. We are advised, however, that the matter is yet open to revision. I do not see how it can well be made so, or in such a way as to leave us where we would have been, under the arrangement first made.

"It is well to state that, when at Detroit, I mentioned to Mr. Reynolds Mr. Ward's having told me of the terms under which he was to receive the bond at 12 months' date. He desired to have it made available on like terms; and I considered it for the Bank's interest, as regarded getting the disbursements of the Rolling Mills, to take the responsibility of cashing such a long-dated security, although the rate barely covered the expense (two valuations on London account and coverings,) involved in the act. As I also mentioned, I wished to show our opinion of the obligations of the G. W. R. Co.; and, altogether, I had supposed the arrangement was satisfactory to all concerned.

"The proposed modification of the D. and M. account, involved in the substitution of this May bond for one of the sterling payments account, D. and M. indebtedness, is by no means the same thing to us. The practical result to us would be postponing to January, 1860, so much of the D. and M. indebtedness which otherwise would be paid 1st May. Apart from this, of the portion of the proceeds already paid to Mr. Ward (\$40,000), only \$11,000 have been in notes: the rest in gold and N. Y. drafts; while the remainder

is to go to Mr. Sanger, 1st March and 1st April. We could not thus pay \$80,000 cash, and take a bond due 1860 (practically), a transaction involving at least 2 1/2 per cent. loss by London account, valuations and coverings.

"I do not see what can now be done other than to let the plan for D. and M. account, as proposed in letter of 28th ultimo, remain as there arranged; and as regards bond to Mr. Ward, treat it as a G. W. R. obligation proper, irrespective of D. and M. account altogether; or, on 1st May, let Mr. Ward take another nine months' bond, negotiate it, and protect the other—objectionable though such a thing would obviously be.

"Our circulation is steadily running down each week. London account already shows a large Dr. balance, with no produce paper to give Exchange in June; and it would be most imprudent were we to look up an amount of \$300,000 at a low rate, which would be unavailable.

"After this explanation, if you can suggest any other plan we shall be glad to consider it. Meantime,

"I remain, Gentlemen,

"Yours faithfully,

(Signed) "C. S. ROSS,
"Cashier."

"C. J. BRYDGES, Esq.,
"THOS. REYNOLDS, Esq."

(95.)

Filed by
Defendants

"C. S. ROSS, Esq.,

"Cashier, Commercial Bank Canada,
"Kingston.

"GREAT WESTERN RAILWAY,

"HAMILTON, CANADA WEST, 10th Feb'y, 1859.

"DEAR SIR,

"On our return from Buffalo yesterday, we had the pleasure of receiving your favor of the 7th instant.

"We are sorry to find the change we made, as to the maturity of Captain Ward's Bonds, has put you to any trouble or inconvenience; it appeared to us to be so unlikely to make the smallest difference to the Bank, as in the aggregate the three Bonds proposed to be given would work out, as regards maturity, to exactly the same thing, that we made the alteration without hesitation. We confess that we cannot yet see that it can make any difference; but there are, no doubt, Banking reasons, which we do not presume to question, which may affect the case in your eyes materially.

"We should be sorry to ask the Bank to do anything for the Company not in strict accordance with their own views of what is desirable and proper; but, as in the concluding paragraph of your letter, you afford us the opportunity of making another suggestion for carrying out the arrangements to cover the D. and M. account, we would beg to submit for your approval the following:—

"A Bond of \$100,000, to mature 1st-4th June, to be immediately passed, and placed to credit of D. and M. account. If at maturity the balance with the Bank at credit of G. W. account should be sufficient to meet said Bond, without causing an overdraft, then no Exchange on England need be given; but exchange be given for any amount not covered by the account, if the Bank should require it.

"Another G. W. Bond for \$100,000, to mature 25th January, 1860, to be lodged at once as collateral to notes of the D. and M. Co., to be drawn at four months from first of February and to be carried over till the maturity of the Bond, when, if the G. W. account is not in sufficient funds to meet the Bond, Exchange on England to be given for the deficiency.

"We shall be happy to hear from you, with your views of this proposal, and if agreeable to you, to carry it out without delay.

"We are, dear Sir,

"Yours faithfully,

(Signed)

"C. J. BRYDGES,

"Managing Director G. W. R. Co.

(Signed)

"THOS. REYNOLDS,

"Financial Director G. W. R. Co."

"COMMERCIAL BANK OF CANADA,

"KINGSTON, 11th February, 1860.

(66.)

Filed by
Defendants.

"GENTLEMEN,

"I am favored with your letter of the 10th inst. There are several Bank reasons for the arrangement being such as you propose, and I therefore induce Mr. Park to take note of D. and M. Co., \$100,000 dated 1st February, at four months, payable N. Y., renewed until January, 1860, the G. W. R. Bond maturing then to be lodged as collateral, and the note to be then paid by G. W. R. cheque, if account will admit, or failing this, by sterling. Proceeds of the note to be credited to D. and M. account, in reduction of balance.

"To reduce D. and M. account further, Mr. Park will discount a G. W. R. Bond, \$100,000, maturing 1-4 June, to be paid in cash, if balance of G. W. R. account admit, failing which, by exchange, for deficiency.

"G. W. R. Bond \$100,000 to E. B. Ward, will be paid in Cash, or Exchange, as circumstances may permit, when it falls due in May.

"The above, when carried out, will complete arrangements as formerly made, as nearly as they can now be done.

"I am, Gentlemen,

"Yours faithfully,

(Signed)

"C. S. ROSS,

"Cashier.

"C. J. BRYDGES, Esq.,

"THOS. REYNOLDS, Esq."

(97.)

Filed by
Defend'ts.

"C. S. ROSS, Esq.,

"Cashier, Commercial Bank of Canada,
"Kingston.

"DEAR SIR,

"We are favored with your letter of yesterday's date, for which we are much obliged.

"The Notes and Bonds to which it refers shall be prepared and deposited with Mr. Park, as directed, with the least possible delay.

"We are, dear Sir,

"Faithfully yours,

(Signed)

"C. J. BRYDGES,

(Signed)

"THOS. REYNOLDS."

(98.)

Filed by
Defend'ts.

"W. H. PARK, Esq.,

"Commercial Bank.

"DEAR SIR,

"I have the pleasure to forward you herewith, Bond of the Great Western Co., No. 279, for \$100,000, due and payable 1-4 June next, which please to place to the credit of the Detroit and Milwaukee account with you, in accordance with the arrangement recently entered into with your Mr. Ross.

"I have ready for delivery, also, under the same arrangement, another G. W. Bond for \$100,000, No. 280, due 25th January, 1860, which is to be deposited, together with notes of the D. and M. Co., for a similar amount, and this shall be sent to you as soon as the notes come down from Detroit.

"Will you please say what amounts the notes shall be made, in order that I may write for them to-day.

"Oblige me by acknowledging the receipt of the accompanying Bond for \$100,000.

"I am, dear Sir,

"Faithfully yours,

"THOS. REYNOLDS,

"V. P."

"No. 279.

"GREAT WESTERN RAILWAY OF CANADA."

(99.)

Filed by
Defend'ts.

"\$100,000."

"THE GREAT WESTERN RAILWAY OF CANADA COMPANY acknowledge to owe and promise to pay to the Commercial Bank of Canada, or their order, at the Offices of the Great Western Railway Company, in Hamilton, Canada West, the sum of One Hundred Thousand Dollars, on the 1st day of June, in the Year of our Lord One Thousand Eight Hundred and Fifty-nine.

"And the said Company further agree that this obligation, and all rights and benefits arising therefrom, may be transferred by special endorsement, as if the same were a Note of Hand payable to order.

"Given under the Common Seal of the said Company, this 15th day of February, in the Year of Our Lord One Thousand Eight Hundred and Fifty-nine.

"Sealed and Signed in the presence of

"W. C. STEPHENS,

"Sec'y, G. W. R. Co.

"JOHN YOUNG,

"Vice-President."

[L. S.]

ENDORSED THUS;

"HAMILTON, 21st March, 1859.

"Paid on account of the within Bond, this day, the sum of Fifty Thousand Dollars (\$50,000).

"W. H. P.,

"M."

"HAMILTON, 4th April, 1859.

"Paid on the within Bond, Fifty Thousand Dollars, being the amount in full (\$50,000).

"W. H. PARK,

"Manager,

"C. B. of C."

(100.)

"COMMERCIAL BANK OF CANADA;

"HAMILTON, 19th February, 1859.

Filed by
Defend'ts.

"THOMAS REYNOLDS, Esq.,

"Vice-President.

"DEAR SIR,

"I am favored with your letter of this day's date, covering a Bond of the Great Western Railway Company for \$100,000, proceeds of which will be placed to credit of the Detroit and Milwaukee Railway Company.

E

"With the second Bond of \$100,000, please to send two Notes of the Detroit and Milwaukee Railway Company for \$50,000 each at this date, and say the 24th inst., for credit of your Company, as agreed.

"I am, dear Sir,

"Yours, faithfully,

(Signed)

"W. H. PARK."

"Manager."

"Detroit and Milwaukee Railway Company."

(101.)

"DETROIT AND MILWAUKEE RAILWAY PRESIDENT'S OFFICE,
HAMILTON, CANADA WEST, 23rd February, 1859.

Filed by "W. H. PARK, Esq.,
Defend'ts. "Commercial Bank.

"DEAR SIR,

"I have the pleasure to hand you, enclosed, two Notes of the Company for \$50,000 each, proceeds of which please carry to the credit of the account, as arranged.

"I also enclose, as collateral to these Notes, the Bond of the Great Western Railway Company for \$100,000, maturing 25th January, 1860.

"I am, dear Sir,

"Yours faithfully,

(Signed)

"THOS. REYNOLDS,

"V. P."

(102.)

"Due, June 22nd, 1859—C. B. 6,949—D. 3,541.

Filed by "550,000.
Defend'ts.

"OFFICE OF THE DETROIT AND MILWAUKEE RAILWAY COMPANY,
"Detroit, February 19th, 1859.

"B.R. 304. 1851.

"Four months after date, the Detroit and Milwaukee Railway Company promises to pay to the Order of W. H. Park, Manager, Commercial Bank of Canada, at the Merchants' Bank, New York, Fifty Thousand Dollars, value received.

"No. 250.

"C. J. BRYDGES, President.

"THOS. REYNOLDS, Vice-President."

(Endorsed)

"W. H. PARK,
"Manager,

"Pay to the Order of the Merchants' Bank, N. Y., value in account with the Commercial Bank of Canada."

"C. S. ROSS,
Cashier."

"Not paid, but renewed as per Company's Note, No. 327, due October 22-25, 1850."

"D. R. 310—Due June 27, 1850—C. B. 8,953—D. 3,563."

"\$50,000."

"OFFICE OF THE DETROIT AND MILWAUKEE RAILWAY COMPANY,
DETROIT, February 21th, 1850."

(103.)
Filed by
Defendants.

"Four months after date, the Detroit and Milwaukee Railway Company promises to pay to the Order of W. H. Park, Manager, Commercial Bank of Canada, at the Merchants' Bank, New York, Fifty Thousand Dollars, value received."

"C. J. BRYDGES, President.
THOS. REYNOLDS, V.-President."

"No. 231."

(Endorsed)

"38,440."

"Pay C. S. Ross, Esq., Cashier, or Order."

"W. H. PARK, Manager."

"Pay to the Order of the Merchants' Bank, N. Y., value in account with the Commercial Bank of Canada."

"C. S. ROSS, Cashier."

"Renewed June 7th, 1850, per No. 323."

"No. 280."

"GREAT WESTERN RAILWAY OF CANADA."

(104.)
Filed by
Defendants.

"\$100,000."

THE GREAT WESTERN RAILWAY OF CANADA COMPANY acknowledge to owe and promise to pay to the Commercial Bank of Canada, or their Order, at the Offices of the Great Western Railway Company, in Hamilton, Canada West, the sum of One Hundred Thousand Dollars, on the 25th day of January, in the Year of Our Lord One Thousand Eight Hundred and Sixty."

"And the said Company further agree that this obligation, and all rights and benefits arising therefrom, may be transferred by special endorsement, as if the same were a Note of Hand payable to order."

"Given under the Common Seal of the said Company, this Fifteenth day of February, in the Year of Our Lord One Thousand Eight Hundred and Fifty-nine."

Scaled and Signed, in the presence of

"W. C. STEPHENS,

"Secretary, G. W. R. C."

"JOHN YOUNG,

"Vice-President." [I.S.]

ENDORSED THUS:—

"Received payment from the Great Western Railway Company of D. 5,752 Note of the Detroit and Milwaukee Railway Company for \$50,000, due in New York, on 25th instant. (This amount is in the meantime placed to credit of the D. and M. Co., lessening to that extent their amount, carrying seven per cent. interest, and the bill will be retired in course.

"W. H. PARK,
"Manager."

"Commercial Bank of Canada,
"Hamilton, 18th October, 1859.

"Received from W. C. Stephens, Esq., Fifty Thousand Dollars, by cheques, Nos. 867 and 914 of the Great Western Railway Company, which we apply in payment of Note of the D. and M. Co., No. 8,009, for an equal amount due 28th February next, giving the D. and M. R. Co. credit for the rebate at discount rate.

"W. H. PARK,
"Manager."

"22nd November, 1859."

(105.)

Filed by
Defendants "THOMAS REYNOLDS, Esq.

"COMMERCIAL BANK OF CANADA,
"HAMILTON, 28th March, 1859.

"MY DEAR SIR,

"As promised, I will renew the \$20,000, Fuller & Co.'s Note for the D. and M. Railway, though it carries the amount past the June settlement. If I were to lessen the amount of what the balance payable to us in June might be, by passing to credit of D. and M. account further renewals, it would look at Kingston as avoiding to that extent the June settlement in sterling Exchange from G. W. Railway. I therefore return Notes \$1,533 29 and \$5,000 (originals, of course, protected), that you may put in a note for the amount payable 12-15 June (here); and, in case you adopt this time, then the note of the Company, without endorsement will do, and the enclosed can be destroyed. I have thought the matter carefully over, and am I convinced that it would not do to renew any of the Company's paper due this side 12th June. We will want all the exchange we can get for cover of our English credit, and having advanced largely on D. and M. notes to Contractors, due next Fall, we will have a very large amount added to the \$100,000, due January, 1860, to carry over. True, we could get the \$9,533 in August, but we will require it in June, and look for at least £45,000 sterling; then, if our calculation and estimate of the position of the accounts should turn out correct, I will give you a memorandum of our estimates, that you may correct our anticipations if we are in error. If the renewal till 12-15th June of the enclosed is any object, then I will pass the Company's note cheerfully.

"In wishing to have these bills in this shape, I believe I am taking the best course for you, and I hope to have your approval after the explanation I have given.

"I remain, as always,

"My dear Sir,

"Yours very truly,

(Signed) "W. H. PARK."

"I add, in terms of the above, your No. 272, \$3,294 08, just sent in by Mr. Cockayne."

"GREAT WESTERN RAILWAY,
"HAMILTON, C. W., 25 May, 1850.

(108.)

Filed by
Plaintiffs
and De-
fendants.

"C. S. Ross, Esq.,
"Cashier Commercial Bank,
"Kingston.

"DEAR SIR,

"Mr. Park kindly undertook, a few days ago, to communicate our desire to be favored with an interview at Kingston, in order that we might explain to you our position in reference to our accounts with your Bank, and that arrangements might be made to relieve us from the necessity of supplying you with Exchange on England in June.

"In Mr. Campbell's reply he states that the Bank cannot do without our Exchange, and that our journey to Kingston, if we went, would not be productive of any advantage regarding the settlement.

"We very much regret this, as our arrangements are such that we cannot give the Exchange; and if, therefore, you still require it of us, it will entail upon us the necessity of arranging, at any price, on this side, to keep faith with you.

"We intended to show you the position we are in, and the arrangements we desired to make to carry us over the present year.

"We enclose you a sketch of our liabilities, both on G. W. & D. & M. ac.; and at the foot an estimate of the net receipts on both lines, after allowing for working expenses. The first is as nearly correct as it is possible to make it; there will be no material variation in those figures. The assets are purposely put down below what we believe they will on the average prove.

"The result is, that by the end of the year there will be a surplus asset of upwards of \$200,000, which will relieve by that amount at least the present overdraft, and make it then less than the amount we understand as our standing credit.

"We need not remind you that of the item 'Bills payable' in the enclosed, the largest amount is held by your Bank, and therefore the payment of them will simply transfer to our debit sums which, to that extent, you are already under advance for on our paper to other parties.

"It is quite clear that if we could now draw on England for say \$150,000, we should have to remit back again in a few months.

"We should have much preferred to place this position personally before you; we have now done so in writing; and if your own plans are such that the Bank cannot do what we require, it will be absolutely necessary that we make arrangements in this country to carry out the programme enclosed herewith.

"We feel that if we have to open negotiations for the supply of our wants, either with New York or Canadian Banks, it will most probably render imperative a change in our relations with the Commercial Bank, which, from the very liberal and courteous treatment we have always received from yours, and all connected with it, we should exceedingly deplore.

"It is our earnest desire to avoid, as far as we can, any such contingency, that we have now placed you in full possession of our wants; and we need hardly add that the very earliest response to this letter will be desirable; because, as the 15th June is now so nearly at hand, we have no time to lose if you insist upon our redeeming our promise to give you Exchange on that day.

"We are, dear Sir, faithfully yours,
(Signed)

"C. J. BRYDGES.
"THO. REYNOLDS."

(103) MEMORANDUM of LIABILITIES and ASSETS of the Great Western and Detroit and Milwaukee
Railway Co's, to 31st December, 1859.

Received in Cash	Jan.	July	August	September	October	November	December	Remarks
Defence to Bills of Exchange	66641	77940 57	66641 74	20515 36	41114 36	10039 00	102 87	417804 52
Bonds for English				22539 80	609 80	40353 10	1271 10	79344 90
D. & M. Bonds			71000 00					71000 00
Interest Coupons								
Share Interest Bonds		11620 00						11620 00
Bridge Road & W. R.	105407 00	102048 07	187872 74	43054 00	47200 00	43092 00	90223 47	579700 72
Barnes Works, W. R.	22600 00		40000	40000 00	40000 00		22600 00	45000 00
Government Loan Interest					85000 00			85000 00
G. W. R. Bonds	124000 00	102648 07	177872 74	83064 00	172200 00	68100 00	112728 47	829700 72

ESTIMATED NET ASSETS.

U. W. R. Net Receipts.	\$ 80000 00	80000 00	85000 00	120000 00	150000 00	150000 00	100000 00	700000 00
D. & M. do.	30000 00	30000 00	30000 00	45000 00	55000 00	55000 00	50000 00	295000 00
	\$ 110000 00	110000 00	115000 00	165000 00	205000 00	205000 00	150000 00	1005000 00

(103)

Filed by
Defendant

C. J. BRYDGES, Esq.

THOMAS REYNOLDS, Esq.

GENTLEMEN,

"Mr. Park has handed to us this morning your letter of yesterday, and has had our best attention. Without replying fully, I shall meantime give our views as to what has been considered at present.

"We regret both the position into which these matters have got, and the necessity of alluding to the contingency of removing the account, if we had to apply to a Bank in Canada in consequence of our insisting upon a fulfilment of the engagements to repay part of the advances by exchange at this time. Mr. Park assures us that you disclaim an intention to coerce us into meeting our views by the allusion cited, and we have therefore considered the question irrespective of this.

"Need not remind you, that on all occasions and frequently to the convenience of the Bank and of other customers, we have met your wishes in that prompt manner which has satisfied you not only of our willingness to oblige, but also of our entire confidence in the Company in yourselves as its financial officers. This course has been uniformly followed by us in all the various relations, direct and indirect, which have arisen. (I allude to indirect relations, referring to our wish to do what we could, towards re-establishing the credit of D. & M. obligations.) Acting upon this policy, and upon the full confidence that you would implement the arrangement to liquidate the balance in excess of \$200,000 in June, we have gone on allowing the

"COMMERCIAL BANK OF CANADA,
"KINGSTON, 20th May, 1859.

credit to be used beyond limit, honoring Cheques, &c., &c.; and for this end we have used London, Edinburgh, and N. York credits, in the certainty that we should have cash or Sterling Exchange in June for the excess whatever it might be. You know there has been no produce paper the past Spring or Winter to give us other funds now for remitting, and I may add that our Dr. balance in London exceeds £50,000 Stg. in N. York, \$200,000. Both must be covered as a matter of course, the former within next ten days, and we must make available, in some way, for this purpose, the obligations of D. & M. & G. W. Railways.

"I am prepared to do everything practicable to assist you, and will go to Albany and N. York on Monday to try what can be done. The balances as on 23rd were say \$378,000 less \$200,000, \$178,000, and adding bills 23rd May to 6th June in our hands \$68,000, the result in round numbers is \$250,000. I should propose your giving me Notes of the D. & M. R. R. for \$50,000 each, (to the order of yourselves, to show you had no doubt of their being met) to extent of \$250,000, and at different dates from 30th inst., 2, 3, and 4 months. (Those not used of course to be returned to you, and we should use the longer dates if practicable) with the five Bonds of G. W. R. at 6 months as collaterals. On these being received here I would go to Albany and N. York, try what I can do to negotiate them (the notes to extent of \$250,000) and buy sterling to remit, accounting to D. & M. acc't. for proceeds. Please give these documents, with copies of the estimated receipts and expenditures of both lines to January, and of list of Bills payable, to Mr. Park, who will send them to me.

"If either of you wish to accompany me and to take part in the negotiation, I can of course have no objection, but if I am alone, and am to act for you, I must have full power to close on your account.

"With reference to your remark about Mr. Campbell's allusion to an interview here being useless, it is due to him to state that it was solely in view of the fact that our London account must be covered, and that we could not avoid calling upon you. Of course he never could have dreamt of your supposing we would not be glad to see you at all times.

"Believe me, Gentlemen,

"Faithfully yours,

(Signed)

"C. S. ROSS,

"Cashier."

(109.)

"MONTREAL TELEGRAPH COMPANY,

"No. of Message, E. 18. Filed by

"HAMILTON, 27th May, 1850

Defendants.

"By Telegraph from Kingston.

"To W. H. PARK, Commercial Bank.

"Consider wholly useless to go without bonds, therefore send them. Letter asked unnecessary, because bonds will revert when notes retired.

"C. S. ROSS."

(110.)

Filed by
Defend'ts.

(Private.)

"DEAR SIR,

"The Telegram quite confirms what we have all along understood to be the arrangement; but, although the letter may appear to Mr. Ross to be unnecessary, he comes to that conclusion in the absence of all the points Mr. Brydges and I laid before you this A.M.

"You are aware of the necessity for our having the letter, and I hope you will arrange that we shall have it.

"The matter may now go forward.

"I am sorry to say the wires are all down west of London, and my telegram to Detroit for the notes has not gone west of that point, and will not probably reach Mr. Trowbridge in time to admit of his sending off the notes to night.

"What, in this fix, had we better do? If Mr. Ross delays his journey to Albany a single day will it affect the operation?

"I am, Dear Sir,

"Faithfully yours,

"THOS. REYNOLDS."

"W. H. PARK, Esq.,

"Commercial Bank."

"GREAT WESTERN RAILWAY,

"HAMILTON, CANADA WEST, 28th May, 1859.

(111.)

Filed by
Defend'ts.

"W. H. PARK, Esq.,

"Commercial Bank,

"DEAR SIR,

"I have now the pleasure to enclose for transmission to Mr. Ross, at Albany, the following documents, viz. :-

5 D. & M. Notes, at 2 mo. date,		\$50,000 each.
5 Do. do. 3 "		50,000 "
5 Do. do. 4 "		50,000 "
5 Bonds under the seal of the Great Western Co., at 6 months, Co....		50,000 "

A memorandum of Liabilities and Assets of the G. W. & D. M. Co's to 31st Dec. next.

And lastly, a statement of the total Liabilities of the D. & M. Co. on Notes, with dates of maturity.

"The D. & M. Bills and the G. W. Bonds being all payable to the order of Mr. Brydges and me, we have endorsed them in blank.

"Two of the sets of D. & M. notes are to be returned to us, and as soon as the set to be made use of by Mr. Ross shall have matured, they are, it is understood, to be retired or provided for by the Bank to the debit of the D. & M. Co.'s account, and the G. W. Bonds to be returned to the G. W. Co., to be cancelled.

"The Bills and Bonds being all endorsed in blank, the package containing them is a valuable one; I hope therefore you will excuse me for asking you to be so good as send me by the bearer, two lines to assure me it has safely reached your hands.

(Signed)

"THOS. REYNOLDS."

"No. 300.

"GREAT WESTERN RAILWAY OF CANADA."

(112.)

Filed by
Defendant.

"\$50,000."

"The Great Western Railway of Canada Company, acknowledge to owe and promise to pay to Charles John Brydges and Thomas Reynolds, of Hamilton, Canada West, Esquires, or their order, at the Offices of the Great Western Railway Company, in Hamilton, Canada West, the sum of Fifty Thousand Dollars, on the First day of December, in the Year of Our Lord One Thousand Eight Hundred and Fifty-nine.

"And the said Company further agree that this obligation, and all rights and benefits arising therefrom, may be transferred by special endorsement, as if the same were a Note of Hand payable to order.

"Given under the Common Seal of the said Company, this Twenty-eighth day of May, in the year of Our Lord One Thousand Eight Hundred and Fifty-nine.

JOHN YOUNG,
"Vice-President. [L. 8.]

"Sealed and Signed in the presence of

"W. C. STEPHENS,

"Sec. G. W. R. Co.

(Endorsed) "C. J. BRYDGES.
"THO. REYNOLDS."

No. 301.

"GREAT WESTERN RAILWAY OF CANADA."

(113.)

Filed by
Defendant.

"\$50,000."

"The Great Western Railway of Canada Company, acknowledge to owe and promise to pay to Charles John Brydges, and Thomas Reynolds, of Hamilton, Canada West, Esquires, or their order, at the offices of the Great Western Railway Company, in Hamilton, Canada West, the sum of Fifty Thousand Dollars, on the First day of December, in the Year of Our Lord One Thousand Eight Hundred and Fifty-nine.

"And the said Company further agree that this obligation, and all rights and benefits arising therefrom, be transferred by special endorsement, as if the same were a Note of Hand payable to order.

"Given under the Common Seal of the said Company, this twenty-eighth day of May, in the Year of Our Lord One Thousand Eight Hundred and Fifty-nine.

"JOHN YOUNG,
"Vice-President. [L. 8.]

"Sealed and Signed in the presence of

"W. C. STEPHENS,

"Sec. G. W. R. Co.

(Endorsed) "C. J. BRYDGES.
"THO. REYNOLDS."

"No. 802.

(114.)

Filed by
Debenture " \$25,000.

"GREAT WESTERN RAILWAY OF CANADA.

"The Great Western Railway of Canada Company acknowledge to owe and promise to pay to Charles John Brydges, and Thomas Reynolds, of Hamilton, Canada West, Esquires, or their order, at the Office of the Great Western Railway Company, in Hamilton, Canada West, the sum of Fifty Thousand Dollars, on the First day of December, in the year of our Lord One Thousand Eight Hundred and Fifty-nine.

"And the said Company further agree that this obligation, and all rights and benefits arising therefrom, may be transferred by special endorsement, as if the same were a Note of Hand payable to order.

"Given under the Common Seal of the said Company, this 28th day of May, in the Year of Our Lord One Thousand Eight Hundred and Fifty-nine.

"JOHN YOUNG,
"Vice-President. [L.S.]

"Sealed and Signed in the presence of

"W. C. STEPHENS,
"Sec'y G. W. R. Co.

(Endorsed)

"C. J. BRYDGES.
"THOS. REYNOLDS."

"No. 803.

(115.)

Filed by
Debenture " \$50,000.

"GREAT WESTERN RAILWAY OF CANADA.

"The Great Western Railway of Canada Company, acknowledge to owe and promise to pay to Charles John Brydges and Thomas Reynolds, of Hamilton, Canada West, Esquires, or their order, at the Office of the Great Western Railway Company, in Hamilton, Canada West, the sum of Fifty Thousand Dollars, on the First day of December, in the Year of Our Lord One Thousand Eight Hundred and Fifty-nine.

"And the said Company further agree that this obligation, and all rights and benefits arising therefrom, may be transferred by special endorsement, as if the same were a Note of Hand payable to order.

"Given under the Common Seal of the said Company, this Twenty-eighth day of May, in the Year of Our Lord One Thousand Eight Hundred and Fifty-nine.

"JOHN YOUNG,
"Vice-President. [L.S.]

"Sealed and Signed in the presence of

"W. C. STEPHENS,
"Sec'y, G. W. R. Co.

(Endorsed)

"C. J. BRYDGES,
"THOS. REYNOLDS."

"No. 304.

"GREAT WESTERN RAILWAY OF CANADA.

(116.)

Filed by
Defendant.

"\$50,000.

"The Great Western Railway of Canada Company, acknowledge to owe and promise to pay to Charles John Brydges and Thomas Reynolds, of Hamilton, Canada West, Esquires, or their order, at the Office of the Great Western Railway Company, in Hamilton, Canada West, the sum of Fifty Thousand Dollars, on the First day of December, in the Year of Our Lord One Thousand Eight Hundred and Fifty-nine.

"And the said Company further agree that this obligation, and all rights and benefits arising therefrom, may be transferred by special endorsement; as if the same were a Note of Hand payable to order.

"Given under the Common Seal of the said Company, this Twenty-eighth day of May, in the Year of Our Lord One Thousand Eight Hundred and Fifty-nine.

"JOHN YOUNG,
"Vice-President. [L.B.]

"Sealed and Signed in the presence of

"W. C. STEPHENS,

"Sec. G. W. R. Co.

(Endorsed)

"C. J. BRYDGES,
"THO. REYNOLDS."

"OFFICE OF THE DETROIT AND MILWAUKEE RAILWAY COMPANY,
"May 30th, 1859.

(117.)

Filed by
Defendant.

"\$50,000.

"Two months after date, the Detroit and Milwaukee Railway Company promises to pay to the Order of C. J. Brydges and Tho. Reynolds, at the Bank of Commerce, New York, Fifty Thousand Dollars, value received.

"C. J. BRYDGES, President.

"THO. REYNOLDS, V.-President."

"No. 314.

(Endorsed) "Pay Bank of Commerce, in New York, or Order.

"C. J. BRYDGES,

"THOS. REYNOLDS"

"Rec'd paym't from Commercial Bank of Canada.

"H. F. VAIL, Cash'r."

"Jhy Renewed by the re-discount of the same am't by the Com'l Bank, Ham'n, upon a manuscript note, as per copy attached.

"S. E. P."

"The new note falls due Nov. 15, '59, at Bank of Commerce, N. Y."

(118.)

Filed by
Defendant's. " \$50,000."OFFICE OF THE DETROIT AND MILWAUKEE RAILWAY COMPANY,
" DETROIT, May 30th, 1859.

" Three months after date the Detroit and Milwaukee Railway Company promises to pay to the order of
C. J. Brydges and Thos. Reynolds, at the Bank of Commerce, New York, Fifty Thousand Dollars, value
received.

" No. 317.

" C. J. BRYDGES, *President*,
" THOS. REYNOLDS, *V. President*."

(Endorsed) " Pay Bank of Commerce, in New York or Order.

" C. J. BRYDGES,
" THOS. REYNOLDS."

" Renewed by the re-discount by the Com'l Bank, Hamilton, of the same amount, per new Note No.
365, pay'le at the Bank of Commerce, N. Y., on the 25-28 Nov., 1859.

" Aug. 29, 1859."

(119.)

Filed by
Defendant's. " \$50,000.

"OFFICE OF THE DETROIT AND MILWAUKEE RAILWAY COMPANY,
" DETROIT, May 30th, 1859.

" Four months after date the Detroit and Milwaukee Railway Company promises to pay to the order of C.
J. Brydges and Thos. Reynolds, at the Bank of Commerce, New York, Fifty Thousand Dollars, value received.

" No. 322.

" C. J. BRYDGES, *President*,
" THOS. REYNOLDS, *V. President*."

(Endorsed) " Pay Bank of Commerce in New York, or Order.

" C. J. BRYDGES,
" THOS. REYNOLDS."

" Rec'd paym't from W. H. Park, Manager.

" H. F. VAIL, *Cash'r.*"

" And Collaterals delivered to his order.

" Renewed per Note, No. 381."

**"OFFICE OF THE DETROIT AND MILWAUKEE RAILWAY COMPANY
DETROIT, May 30th, 1850.**

(120.)

Filed by
Defendant

" \$50,000.

"Four months after date, the Detroit and Milwaukee Railway Company promises to pay to the order of
C. J. Brydges and Thos. Reynolds, at the Bank of Commerce, New York, Fifty Thousand Dollars, value received.

" C. J. BRYDGES,
" President.

" THO. REYNOLDS,
" V. President.

" No. 323.

(Endorsed) " Pay Bank of Commerce, in New York, or Order.

" C. J. BRYDGES,
" THO. REYNOLDS.

" Rec'd pay't from W. H. Park, Manager, and Collaterals delivered to his order.
" H. F. VAIL, Cash'r.

" Renewed per Note No. 382."

**MEMORANDUM of LIABILITIES and ASSETS of the Great Western and Detroit and Milwaukee
Railway Co's., to 31st December, 1850.**

Filed by
Plaintiff

1850.	June.	July.	August.	September.	October.	November.	December.	Total.	Remarks
Bills Payable, D. & M. \$	105547 66	77940 57	68872 74	20515 36	41115 20	10839 30	88952 87	417804 82	
Bonds for Duties on Iron, D. & M.		18088 10		22539 30	6097 80	83353 10	1271 10	79344 90	
Interest Coupons, 1st and 2nd Mortgage, D. & M.			71000 00					71000 00	
Share Interest Bond Cou- pons, D. & M.		11620 00						11620 00	
Bridge Rent, G. W. R.	105567 66	102648 67	187872 74	48054 60	47309 66	58192 66	90223 47	679789 72	
Barns Works, G. W. R.	12500 00		40000	40000 00	40000 00		23500 00	45000 00	
Government Loan Interest G. W. R.					85000 00			85000 00	
	\$ 128067 66	102648 67	177872 74	88054 60	172200 66	58192 66	142723 47	829789 72	

ASSETS

G. W. Ry. Net Receipts.	\$20000 00	\$00000 00	\$30000 00	\$20000 00	\$50000 00	\$50000 00	\$100000 00	750000 00
D. & M. do.	\$00000 00	\$00000 00	\$00000 00	\$45000 00	\$55000 00	\$55000 00	\$50000 00	205000 00
	\$ 110000 00	\$100000 00	\$100000 00	\$165000 00	\$205000 00	\$205000 00	\$150000 00	1055000 00

" C. J. BRYDGES,
" Presid't of D. & M. Ry.,
" And Managing Director of G. W. R.

" THOS. REYNOLDS,
" V. P. of D. & M. Ry Co.,
" And Financial Director of G. W. R. Co.
" 27th May, 1850."

(122.) [Received 11.30 p.m., Saturday, 26th May, '89.]

Filed by
Defendant. "MY DEAR SIR,

"11, P. M.

"Your letter, in explanation of the financial transaction Mr. Ross goes to N. Y. to look after, is received, and with it the 15 D. & M. notes and 5 bonds of the G. W. R., all right.

"You certainly have been equal to yourself in this matter; and none of us have to fear blame on the score of want of promptness.

"Yours ever,

(Signed) "W. H. PARK.

"THOS. REYNOLDS, Esq."

"Mr. Munro, who goes with the parcel, is the son of an old soldier, and will be worthy of the trust."

(123.)

Filed by
Defendant. "MY DEAR SIR,

"COMMERCIAL BANK OF CANADA,
"HAMILTON, 21st Aug. 1859.

"Mr. Mingaye will get the money at Windsor as requested. You can make a Note of the Company's to order of yourself, as V. P. thereof, for the wages; say at 45 days, payable at our Agency in Windsor. Send it to me and I will discount it for you.

"Many thanks for the reports and newspapers. Wonder who that Manager from Montreal is?

"Yours, very truly,

"W. H. PARK,

"THOS. REYNOLDS, Esq."

(124.)

Filed by
Defendant.

"GENTLEMEN,

"COMMERCIAL BANK OF CANADA,
"KINGSTON, 7th June, 1859.

I have to advise that as desired I proceeded to New York last week, and availed myself of the services of Mr. Plumb, who made negotiation of four notes of Detroit and Milwaukee Railway Co., say:

Exhib. No. 117	No. 314, at 2 mos. date from 31st May.....	\$50,000
" 118	317, " 8 mos. date " " "	50,000
" 119	322, " 4 mos. date " " "	50,000
" 120	323, " " " " "	50,000

On account of D. & M. R. Co. He has given us sterling exchange, \$100,000 stg., on said account, and will give us another like sum, accounting to you for the figures in reference in due course. I beg to hand you herewith four notes of D. & M. R. Co. for \$50,000 each, four others for like amounts, and three others also

for like sums at 2, 3 and 4 months respectively, in all five hundred and fifty thousand dollars, as also Bond of Exh. No. 116 Great Western Railway Co., No. 304, for \$50,000, which were not used in the negotiation, making up the whole amount entrusted to me.

"I am, Gentlemen, yours faithfully,

(Signed)

"C. S. ROSS."

"C. J. BRYDGES, Esq.,
"THOS. REYNOLDS, Esq."

"COMMERCIAL BANK OF CANADA,
"KINGSTON, 7th June, 1859.

(125.)

Filed by
Defendants.

"GENTLEMEN;

"Referring to four notes of the Detroit and Milwaukee Railway Company, for Fifty Thousand Dollars Exh. No. 112 each, negotiated by Mr. Plumb, on account of the said Company in New York, I beg to state 112, 114, 115 that the Bonds of Great Western Railway Company, No. 300 @ 303, inclusive, and amounting to Two Hundred Thousand dollars, are held by the holders of the notes alluded to as collateral security for payment of the said notes; and that on payment of the said notes the said Bonds will be returned to the Great Western Railway Co.

"I remain, Gentlemen,

"Yours faithfully,

(Signed)

"C. S. ROSS."

"C. J. BRYDGES, Esq., *Man'g Director.*
"THOMAS REYNOLDS, Esq., *Financial Director,*
"Great Western Railway Co.,
"Hamilton."

"DETROIT AND MILWAUKEE RAILWAY,
"PRESIDENT'S OFFICE,
"HAMILTON, CANADA WEST, 22nd July, 1859.

(126.)

Filed by
Defendants.

"W. H. PARK, Esq.,
"Commercial Bank.

"DEAR SIR,

"I beg leave to enclose list of notes maturing during August, amounting in all (including the first of the four notes of \$50,000 each, lately negotiated by Mr. Ross for the Co., through the Bank of Commerce, to \$159,151 08, for which have the goodness to prepare due honor.

"Please take care to get up the \$50,000 Great Western Bond deposited as collateral to the note of that amt. above referred to on the payment of said note, and return it to the G. W. Co. to be cancelled as arranged.

"I am, dear Sir,

"Faithfully yours,

(Signed)

"THOS. REYNOLDS.

"V. P."

**STATEMENT of the NOTES and ACCEPTANCES of the Detroit and Milwaukee Railway Co'y
falling due during the Month of August, 1859.**

Due.	To whom.	Payable at	Amount.	Total.
1859 Aug. 2	C. J. Brydges & T. Reynolds	Bank of Commerce, New York.....	\$ 50,000 00	
2	Boston Loco. Works	Merchants' B'k, N. Y.	2,521 86	50,000 00
5	S. C. Ridley	do.	3,744 92	
5	H. A. Fuller & Co.	do.	20,000 00	
6	Geo. Blumburgh	do.	4,008 96	
9	Boston Loco. Works	do.	2,521 86	
16	Duncan, Sherman, & Co.	do.	30,487 29	
18	Boston Loco. Works	do.	2,521 86	
21	R. & N. Dye	do.	617 42	
25	Boston Loco. Works	do.	2,521 86	
	Do.	do.	1,000 00	
29	Duncan, Sherman, & Co.	do.	26,182 25	
29	J. Shearer & Bro.	do.	466 00	
31	H. M. Robinson	do.	2,050 89	
4	Bogert & Kneeland	Com'l Bank of Can., Hamilton.....	5,061 24	97,640 17
4	Charles Kneeland	do.	2,606 06	
4	H. Langley & Sons	Mich. Ins. B'k	431 47	7,567 20
13	C. A. Luce	Com'l Bank of Can., Windsor	2,541 97	431 47
20	Wood & Judd	do.	979 12	
				3,512 09
				\$ 169,151 03

(127.)

Filed by
Defend'ts.

"THOMAS REYNOLDS, Esq.,
" Vice-President.

"DEAR SIR;

"Your favor of yesterday is received, with list of Bills for August to be protected in New York, we give due attention.

"I wrote Mr. Ross this morning to know if the bill could be renewed which matures at Bank of Commerce on the 2nd, \$50,000. I know he has not the capital free now for an increase at this Branch, so that it is very likely he will make an effort to get the extension rather than pay gold and add to the D. & M. account. I take it for granted that you have no objection to sign again.

"I am, dear Sir,

"Yours, faithfully,

"W. H. PARK,

"Manager."

"Detroit and Milwaukee Railway Company,
"Hamilton Office."

"COMMERCIAL BANK OF CANADA,
"Hamilton, 23rd July, 1859.

"D. & M. R'y Co.

"PRESIDENT'S OFFICE,

"HAMILTON, 27th July, 1859.

(128.)

Filed by
Defend'ts.

"W. H. PARK, ESQ.,

"Commercial Bank, Hamilton.

"DEAR SIR,

"In accordance with the request of Mr. Ross, conveyed to us through you, we have the pleasure to hand you, annexed, the Company's note, due 15th Nov. next, for \$50,000, with our individual endorsement thereon.

"We are, dear Sir,

"Faithfully yours,

(Signed)

do. J.

"C. J. BRYDGES."

"THOS. REYNOLDS."

"27th July, 1859.

"\$50,000.

"On the 15th day of November next, the Detroit and Milwaukee Railway Company promises to pay to the Order of C. J. Brydges and Thos. Reynolds, at the Bank of Commerce, New York, the sum of Fifty Thousand Dollars, for value received."

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 29th July, 1859.

(129.)

Filed by
Defend'ts.

"MY DEAR SIR,

"Before asking the consent of the Board for the carrying over of the steamboat loan, I wish to anticipate a question which will naturally be asked, whether you cannot let it merge into the general settlement in Nov. out of traffic and the Oct. Board. The original arrangement promised the return to us in Sept. next, and of course that is in mind."

"I fear that the \$1,000 a week will be considered tedious, but the matter will have the usual consideration of all your other matters."

"Yours,

"W. H. PARK."

"T. REYNOLDS, ESQ."

"HAMILTON, 2nd August, 1859.

(130.)

"Two notes of the Detroit and Milwaukee Railway Company, payable at the Merchant's Bank, New York, Filed by
on 28th April, 1859, to the order of the Boston Locomotive Works for \$2,551 86, and of Robinson, Russell & Defend'ts.
Co., for \$1,085 57, having been paid and cancelled, and the same having been lost in transit from New York
to this place—I, on behalf of the Commercial Bank of Canada, guarantee the D. & M. R'y Co. from having
to pay such bills a second time.

"W. H. PARK,

"Manager."

(131)

Filed by
Defendant

"THOMAS REYNOLDS, Esq.,

"MY DEAR SIR,

"Referring to our conversation lately about the collateral G. W. R. Bonds, I wrote to Mr. Ross to know precisely what he meant to convey in his letter of the 7th June last, handed to you in Toronto by him when we met there. Under date of yesterday, he writes:— I return my letter of 7th June to Messrs. B. & R., of course, I knew it was not customary to give up part of collaterals until all the notes are paid, and even if G. W. R. had paid Bank of Commerce the cash for first note, instead of renewing it, we cannot, with propriety ask them to give up any of the Bonds, until all the notes are paid. You will see my letter speaks of the transaction as a whole, not in pieces. I do not know that our Board would wish to retain them, although we were holders of the renewals, and should hold the Bonds until renewals are paid; but, of course, we could not, as I have said, ask Bank of Commerce for any part of the collaterals, until October; if we did ask, doubtless we should be refused, on the ground of its being contrary to custom and no stipulation made at the time; please explain all this to Mr. Reynolds. If he wishes, I will ask Bank of Commerce for two when the next bill matures, and if got, send them up, when the G. W. R. could give us a letter of guarantee instead, to cover renewals. This would reduce the amount, if it is an object; my impression is, it will not be done by B & C., and we should not ask it, but I will write if Mr. Reynolds still wishes it."

"I conveyed to Mr. Ross minutely, the difficulties you foresaw in relation to these collaterals; the above is his view of the case, and of the letter, for which you asked me to stipulate."

"I may here remark, to complete this letter, that in your note of the 27th May, you authorise me to "go forward" with the matter, only expressing the hope, that the letter asked for might be obtained from our Board. You then thought (with reason) that the traffic would have run off these; long ago; but, as there is no cash retirement of the bills, the terms of Mr. Ross' letter have not been complied with, and hence the difficulty of asking B. of C. to give up the collaterals."

"I am, my dear Sir,

"Yours faithfully,

(Signed)

"W. H. PARK."

(132.) (Confidential)

Filed by
Plaintiff

"THOMAS REYNOLDS, Esq.,

"MY DEAR SIR,

"It will, of course, reach you that we are not giving the usual facilities for assistance in removing the produce this season; and I think it well to let you know the cause."

"There is not so good a centre in all Canada, I am satisfied, as this, for purchasing directly from the Farmers, and concentrating from out-stations, all kinds of produce, and, of course, none in which you are so directly interested as a Company. For the first reason, demands for money at this point are large, particularly when the crop is abundant, and the Bank has been, all this season, in the habit of taking up all the credits asked for where there was character, and undoubted safety. As the result of this, and, to some extent, the

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 23rd August, 1860.

spathy of other offices here, we had gathered round this office of the reliable dealers in produce in this locality. I state a fact, which has been expressed by our Customers, this week, as a reason why we should go on. They say, "You have it all in your own hands; and we want to remain, and make our business pay the Bank." But it cannot be done; and we have had, I may say, a general leave-taking. I hope they will get supplied elsewhere.

"I regret to say that the cause lies with our Railway connection; and I heartily wish it were not so; and I know you did not desire such a *denouement* nor anticipate it. The fault lies with ourselves in allowing the accounts to absorb for the benefit of the people of Michigan what our charter contemplates for local trade.

"The Loans now stand as follows:—

Debit balance of D. & M. Acct.....	\$475,370.88	
Steam-boat Account	85,500 00	
A. P. Stewart's Account	70,500 00	587,370
Bond discounted by authority of Head Office to prolong an equal amount paid to		
Ward, in May	\$50,000	
Loan guaranteed to the Bank of Commerce, N. Y.	200,000	
Sundry Bills discounted for S. C. Ridley and others, to enable them to complete		
works on both lines, but chiefly D. & M., as supposed necessary to develope		
traffic	95,505	345,005
Total Loans to D. & M. Railway		\$832,965
Great Western Railway Bonds from Ridley, Pense, & Tason & Co.	\$54,041	
Less balance at credit of G. W. R.	18,117	38,504
		\$971,529
Duncan, Sherman & Co., and other sums in a few days		30,000
Total		\$1,001,529

"Such advances in proportion to capital, are, I think you will admit, quite sufficient to disarrange any Bank's affairs; and our only excuse to the Stockholders would, I fear, be far from tenable in extenuation.

"I feel it to be my duty to put you in possession of these facts; and if I were to add the position which Mr. Ross finds the foreign accounts in consequence, and the reduced figures of other resources, you would realize fully the unexpected mischief of these advances. Please read this letter to Mr. Brydges, that he may, in London, be fully impressed with the necessity of putting your accounts in a position of safety to the Bank, and credit to yourselves, and to enable us to take up our usual business, and resume, if possible, our forfeited connections.

"We know well that you could not foresee the immense falling off in traffic; but had it been as large as there was reason to have hoped it would, it is now evident that it would have been far from keeping the accounts in a position to meet valuations.

"Yours faithfully,

"W. H. PARK"

(133.)

Filed by
Defendant

"EXTRACT

"From Letter by W. H. Park to F. W. Gates, of 27th August, 1859.

The G. W. R. collateral bonds for \$300,000, of the D. & M. loan remain in the hands of the Bank of Commerce till the loan is paid, and we have the letter of guarantee of G. W. R. for all the open balance of the D. & M.

(134.) (Copy)

Filed by
Defendant

THOMAS REYNOLDS, Esq.,

"DEAR SIR,

"I am favoured with your letter of yesterday's date, enclosing two bills of \$50,000 each, which will be discounted next month, on the requisite dates, and the proceeds applied in payment of bills maturing in N. York, 25th & 30th idem of equal amount for acc't D. & M. Co.

"With reference to the Special Loan Notes, \$50,000 each, at the Bank of Commerce, due 3rd Oct'r, I will ask Head Office for instructions and report in course.

"Yours very truly,

(Signed) "W. H. PARK,
"Man'r."

"Detroit and M. R. Co.,
"Hamilton."

(135.)

Filed by
Defendant

THOS. REYNOLDS, Esq.,

"Vice President,

"DEAR SIR,

"I beg to enclose retired Bills of the Detroit & M. Railway Company, say No. 323, due 3rd inst., \$50,000, and No. 332, due same date, \$50,000, renewed, together with the former two Bills of the Bank of Commerce Loan.

I am, Dear Sir, yours faithfully,

W. H. PARK,
"Manager."

"Detroit and M. Railway Co.,
"Hamilton."

(Copy)

"GREAT WESTERN RAILWAY,
"HAMILTON, CANADA WEST, 4th October, 1859.

(136.)

Filed by
Defendant's.

"W. H. PARK, Esq.,
"Commercial Bank.

"DEAR SIR,

"The Directors, observing, by the endorsement of the Detroit & Milwaukee Company's notes, returned to Mr. Reynolds yesterday, that the Bank of Commerce have duly returned to you the Collaterals they held, I am to request that the bonds of this Company deposited by you with that Bank as such Collaterals, may be returned to me to be cancelled by the Board, in accordance with the arrangements under which they were issued.

"I am, dear Sir,

"Yours faithfully,

(Signed)

"W. C. STEPHENS,

"Secretary."

"COMMERCIAL BANK OF CANADA,
"HAMILTON, 5th Oct., 1859.

(137.)

Filed by
Defendant's.

"W. C. STEPHENS, Esq.,
"Secretary,

"DEAR SIR,

"I am favoured with your note of yesterday's date, referring to certain collateral Bonds of the Great Western Railway Company.

"The question of the separate loan to the Detroit and Milwaukee Railway Company was discussed with Mr. Ross, by Messrs. Brydges and Reynolds, at Toronto, in June. I therefore forward your note to Mr. Ross, but, in the meantime, I would remind you that the loan is still running by way of renewal, no provision for the Bills having been made by the Detroit and Milwaukee Railway Company, the debit balance of that account with us, having increased over and above this special loan, \$99,920 61 since June.

"When I hear from Mr. Ross, I will at once advise you.

"Yours truly,

(Signed)

"W. H. PARK,

"Manager."

"Great Western R'y Co.,
"Hamilton."

(138.)

Filed by
Defend'ts.

"W. C. STEPHENS, Esq.,

"Secretary,

"Great Western Railway Co's,

"DEAR SIR,

"Referring to your letter of the 4th Inst., I have submitted it to our Cashier, and I am instructed to reply that the notes of the Detroit and Milwaukee Railway Comp. having been *renewed*, not paid, the collaterals still attach, as a matter of course; and that so soon as the loan is paid off, and the renewal bills now running are retired, then the bonds will be given up at once.

"At the June meeting in Toronto, Mr. Brydges mentioned that there was no doubt by this time the receipts of both Companies would place your finances in a position to meet these bills easily, and neutralise, to the satisfaction of the Bank, the then debit balance and future liabilities of these Companies.

"By reference to the schedule of ways and means for the current year, you will observe what the expectations of Mr. Brydges were. It is a matter much to be regretted, that these expectations have been so seriously disappointed, causing the then large balance to be carried forward and largely added to, as I advised you in my note of the 5th inst.

"We trust, however, that Mr. Brydges's expectations, as per the schedule, are only postponed, and that the natural advantages of the Great Western Railway will bring in with reviving trade, ample compensation for the lowness of the traffic, during the past two years.

"I remain, dear Sir,

"Yours very faithfully,

"W. H. PARK,

"Manager."

(139.) "THOMAS REYNOLDS, Esq.,

Filed by
Defend'ts.

"Vice-President."

"DEAR SIR,

"Enclosed I beg to hand you for signature and return, blank certificate of the balance due this Bank by your Company on account as on the 10th instant.

"We are preparing for an inspection, and this certificate, with others, we shall have to show to the acting Inspector, from whom we look for an immediate visit, therefore you will kindly cause the document to be completed and returned at your convenience.

"I am Dear Sir,

"Yours truly,

(Signed) "C. H. SORLEY.

"Acct.

"Detroit and Milwaukee R'y Co.,
Hamilton, C. W."

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 8th Oct., 1859.

"W. H.

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"DEAR

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"DETROIT AND MILWAUKEE RAILWAY,
"PRESIDENT'S OFFICE, HAMILTON, CANADA WEST, 15th Oct., 1850.

(140.)

Filed by
Defend'ts.

"W. H. PARK, Esq.,
"Commercial Bk of C'da.

"DEAR SIR,

"I have the pleasure to return, duly signed, the certificate of the balance due your Bank by this Company on the 12th instant, \$562,990 08, enclosed in your favor of the 14th instant.

"I am, dear Sir, yours truly,

(Signed)

"THO. REYNOLDS,
"Vice-Pres't."

"COMMERCIAL BANK OF CANADA,
"KINGSTON, 10th October, 1850.

(141.)

Filed by
Defend'ts.

"W. C. STEPHENS, Esq., Secretary.

"DEAR SIR,

"I am favored with your letter of 13th inst., on the subject of a Bond of G. W. R. Co., \$90,000 cashed for the Wyandotte Rolling Mills Co., about 1st Feb'y last, by our Agent at Windsor.

"So far as my memory serves me, the facts are simply these: When at Detroit in January last, Mr. Ward asked me if we could cash a bond of G. W. R. Co. having one year to run, adding that it would cost him 10 p. ct. to get it cashed in Detroit, if he could do it at all, and that the local banks had such limited means that they could not purchase an item of such amount. The security being the same character as a debenture (purchasable at any rate parties might agree to), and understanding from Mr. Reynolds that he and Mr. Brydges desired the hearty co-operation of Mr. Ward and his friends in respect of the objects of the mission of Messrs. B. & R. to Detroit, as also that Mr. Ward should be able to sell the bond, I considered it to be my duty, in conformity with the well understood wishes of our Board, to assist the G. W. R. Co. business when in our power to do so, to meet Mr. Ward's wants and Mr. Reynolds' wishes; and having arranged with Mr. Ward, Mr. Reynolds expressed the G. W. R. Co.'s thanks for our intervention. I cannot say that terms were discussed between myself and Mr. Reynolds—I rather think not; but it is a fact that Mr. Ward made the proposal of terms referred to, and I assumed that the bond was a business document in hands of the Wyandotte Co., and saleable at any price they chose to take, while the terms were not affecting the G. W. R. Co. in any way, but were purely the matter of Wyandotte Co. Afterwards, when the bond was offered, it was found to be payable on the 1st May last, instead of 1st Feb'y, 1860. It was cashed by our Windsor Agent, charging 7 p. c. for the time it had to run. I understand Mr. Ward did not require to use all the proceeds at once, and that a part remained for a time on deposit. Probably in this way it is claimed that the Bank derived collateral advantage beyond the interest, and certainly we should never have dreamt of cashing a 12m. document without some collateral advantage. Mr. Reynolds is quite aware that he has since claimed that the amount shall be carried over to 1 Feb'y, 1860, in respect of arrangement between Mr. Ward and myself, and that this has been acted upon. Now, however, it is desired to make the transaction a 7 p. c. one, and as an advance to G. W. R. Co. for 12 months. I explained to Mr. Ward that I think to Mr. Reynolds also, that the operation involved use of our London credit twice. Two sales and purchases of sterling in New York, and the commissions thus to be incurred, were stated. I must be permitted to add, that had the case been represented to us as in the position of an advance to G. W. R. Co., as now claimed for it; and when our advances were even then so largely in excess of the amount agreed upon, then undoubtedly we should have told Mr. Ward to look elsewhere for a purchaser for the bond.

"At present I forbear making further comment, beyond the remark, that it is to be regretted such a long period has been allowed to elapse before we are informed that the transaction was in effect a loan to G. W. R. Co., and after renewals of the amount have been passed, so as to bring it to 1st Feb'y next. However, that we may approach revision of our relations with the Company with nothing on their part to complain of, our Agent at Windsor has been instructed to credit the Wyandotte Co. for interest on undrawn balances arising out of the transaction in question. The Wyandotte Co. can then credit G. W. R. Co., if they see fit, for a corresponding amount. Obviously, we cannot credit G. W. R. Co.

"Assuming from the tenor of your letter that the matter had been before the Board of G. W. R. Co., I am instructed to request that this explanation may also be read to the Board, for we cannot believe revision of our transaction with Mr. Ward would have been called for had our view of the matter from its inception been in the knowledge of the Directors of G. W. R. Co.

"I remain, dear Sir, your most obedient servant,

(Signed)

"C. S. ROSS,
"Cashier."

(142.)

Filed by

Defendant.

"THOMAS REYNOLDS, Esq.,

"Vice President.

"DEAR SIR,

"I observe by your list that you have to pay Duncan, S. & Co. in N. York, on 28th instant, \$33,331 31.

"This you will require to provide for by renewal or in some other way, as the Bank account add to N. York account, except the result of Mr. Brydges' mission furnishes the necessary Exchange.

"I advise you in time, so that you can arrange for the renewal; as I have no doubt D. S. & Co. will be quite willing to carry it over.

"Yours very truly,

"W. H. PARK,
"Man'r."

"Detroit and Milwaukee Railway Company."

COMMERCIAL BANK OF CANADA,

HAMILTON, 21st October, 1850.

(143.)

Filed by

Defendant.

"C. S. Ross, Esq.,

"Cashier, Commercial Bank, Kingston,

"DEAR SIR,

"I am now instructed to acknowledge the receipt of your letter of the 10th inst., in reply to mine of the 13th, with reference to the rate charged by your Windsor Branch on discounting for the Wyandotte Rolling

"GREAT WESTERN RAILWAY,

"HAMILTON, CANADA WEST, 26th Oct., 1850.

Mill Company, a Bond of this Company for \$50,000, and I am, in reply, to enquire whether you are not under some misapprehension as to the transaction, the circumstances connected with which I am directed to explain.

"In January last this Company was indebted to the Wyandotte Company something over \$200,000; but my Directors, desiring to avoid checking on your Bank for the amount at that time arranged with the Wyandotte Company to give them a Bond for \$200,000, to postpone the payment for some months,—it was at first proposed to make it 12 months, as you mention in your letter, but subsequently the period was fixed for the 1st of May,—Mr. Brydges and Mr. Reynolds agreeing with Mr. Ward, the Treasurer of the Wyandotte Company, to endeavour to get your Bank to discount the Bond for him, the cost of which was to be charged against this Company.

"Mr. Reynolds is under the impression that you were at that time cognizant of that being the arrangement.

"The Great Western Company's Balance-sheet, at that date, showed a small credit; and, therefore, if the amount had been paid by cheque, instead of issuing the Bond we should only have been charged interest on the amount of the Bond at our agreed rate.

"By the statement rendered us by the Wyandotte Company, it appears that your Windsor Branch charged 10 per cent. for discounting the Bond, and placing the proceeds to the credit of the Wyandotte Company. The Wyandotte Company drew out the money at various times; and the Bank allowed them 7 per cent. interest on the amounts remaining in their hands.

"At maturity of the Bond, it was paid by this Company's Cheque, and retired.

"You speak of the amount having been carried over to the 1st of Feb'y next, by arrangement between Mr. Ward and yourself, on the application of Mr. Reynolds. The transaction to which it is believed you here refer, is altogether a distinct matter—two notes of the Detroit and Milwaukee Company for \$50,000 each at 4 months discounted by your Bank in February last, for which a Bond of this Company was deposited with you as collateral. These Bills were renewed in June for 4 months; and on maturity the payment of one of them was provided for by this Company's Cheque for \$50,000 on the 10th inst. The second Note was again renewed, and will be due in February next.

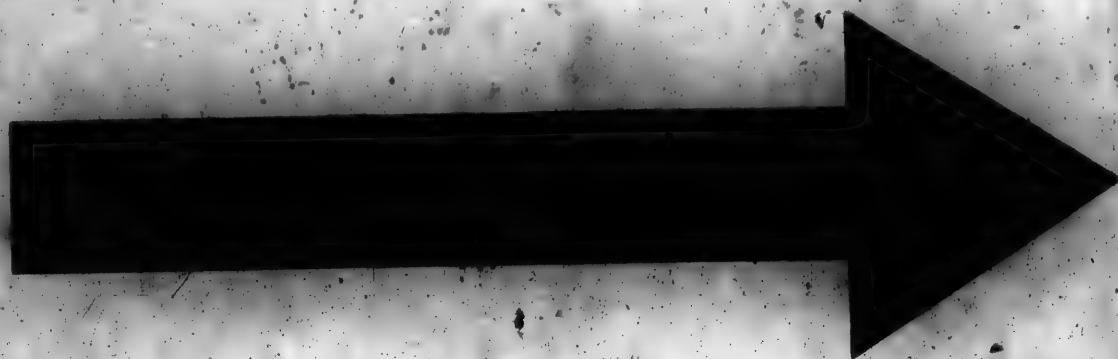
"You express regret that so long a period should have been allowed to elapse before your attention was called to the subject. Allow me to explain, that it was not until very recently, when the Wyandotte Company had completed the rolling of the rails, and rendered us their account, that we were aware of the rate the Bank had charged on discounting the Bond, when, conceiving there had been some misunderstanding about the transaction, I wrote at once to the Secretary of the Wyandotte Company to see Mr. McDonald on the subject; and, on receipt of his reply—that Mr. McDonald had acted on your instructions—I addressed you my letter of the 13th instant.

"With this explanation it is desired to leave the matter entirely in your hands to deal with as you may consider right, and your decision will be perfectly satisfactory.

"I am, dear Sir,

"Yours faithfully,

(Signed) "W. C. STEPHENS,
"Sec'y."



(144)

Filed by
Defendant. "W. C. STEPHENS, Esq.,
"Secretary,
"Great Western Railway Co.

"COMMERCIAL BANK OF CANADA,
"KINGSTON, 28th Oct., 1859.

"DEAR SIR,

"I have to acknowledge receipt of your letter of 26 inst.

"The amount of reclamation, in respect of our transaction with Mr. Ward in February last, having been adjusted by entry, to credit of the Wyandotte R. Mills Co. at Windsor Agency last week, the matter might, perhaps, have been left without further discussion; our views having been already fully stated, and because we adhere to them, by reflecting that we considered the transaction to be with Mr. Ward, not the G. W. R. Co.; that, as is admitted, the Bond was spoken of as at 12 months, and the arrangement based on *that* date, not 8 months, and that being a Bond, it was both legal and in ordinary course of business to purchase it at any rate parties might agree upon (the term discounting is inapplicable, strictly speaking). There are, however, several points in your letter which I am reluctantly compelled to remark upon, lest silence should be construed into acquiescence, in their correctness, or rather relevancy to the question lately at issue. For these reasons, and because we think the tenor of your argument leads to the conclusion that you consider the indebtedness of the Detroit and Milwaukee account of the G. W. R. Co. as not a liability of G. W. R. Co. to us, while, in reality, and under the guarantee we hold, all the indebtedness is that of G. W. R. Co. I consider it necessary to explain further.

"I need not remind you, that of the terms of agreement between the G. W. R. Co. and the Bank, when the account was taken up, one point was, that the Co. should have an overdrawn credit of £50,000. Subsequently, the Co., desired to have transactions of their Branch, the Detroit and Milwaukee R. R. Co., conducted in a separate account, and under the guarantee, the balance of that account has always been a direct liability of the G. W. R. Co. to the Bank; and taking balance sheet of 1st February last, of our Hamilton Branch, I find the balance Dr. of D. & M. acc't was \$419,000—that of G. W. R. acc't \$56,000 Cr.: so that at that date the G. W. R. Co. owed the Bank \$363,000, or \$163,000 beyond authorised limit when acc't was taken up (and this apart from Bonds and bills cashed, then remaining and amounting to upwards of \$200,000, of which a great part had been done to enable contractors to expedite the works, the completion of which could never have been reached at the time, unless we had given such facilities). Under these circumstances, we are surprised to hear you state that Mr. Ward ought to have been paid by cheque, the inference being, that because one of the G. W. R. acc'ts showed a credit balance, a cheque would have been all in order; although, in reality, the credit was largely exceeded at the moment. I make these remarks because we think you desire to treat the D. & M. acc't as no liability of the G. W. R. Co., whereas, on the contrary, it is a direct liability to this Bank.

"It is proper also to remark, that all the negotiations at Detroit were predicated upon the Bond being at 12 months; no shorter date was *then* spoken of. We did not hear of the change for 10 or 15 days after, at least—perhaps longer.

"Carrying over the \$100,000 from May to Feb. next, in the shape of the D. & M. note, with G. W. R. Bond as collateral, was practically the same as if the Bond had been renewed, the only difference between us on this can be, that at the expiration of 8 months, one half of the amount was retired by cheque, although there was more than a corresponding increase of Dr. balance of D. & M. acc't.

"And, so again, in reference to the \$90,000 Ward Bond being retired by cheque, while that was of course the case, it is equally true that on 3rd May the accounts showed Dr. balances of \$336,000 or \$136,000 over agreement limit, besides discounted Bonds and Bills \$300,000 more.

"I am forced to call your attention to these figures, because you speak of payments and retiring; while, in fact, the indebtedness of the Company to the Bank has been steadily increasing, not only largely beyond the limit, but to an extent never contemplated by us. A great part of the excess has been urgently asked from us, often at much inconvenience; and now, directly and indirectly, I may say, the total approaches a million of dollars. The account of Great Western Railway Co. may properly carry with it an overdrawing credit of £50,000, but the value of the account by no means warrants or calls for the advances to the large extent which in our case they have reached; now, particularly, when the construction of the roads is done, and the loan in great part has become practically a lock up for the time, at interest only, and with no collateral advantages.

"Without alluding to matters in May last, but only what we have done throughout to assist the Co., we are not prepared to find the Co. making reclamation in reference to our transaction with Mr. Ward. However, the matter has been adjusted as I said, and it need not be again referred to, for our Board must consider anew the whole relations of the Co. and the Bank; this late correspondence indicating to our minds an evident change of that friendly relation which we had supposed the Co. entertained towards the Bank.

"I remain, dear Sir,

"Yours, truly,

"C. S. ROES,

"Cashier."

"COMMERCIAL BANK OF CANADA,
"HAMILTON, 28th October, 1850.

(145.)

Filed by
Defendants.

(Private.)

"MY DEAR SIR,

"I was sorry to hear to day, for the first time, that there have been standing for some time several judgments against the Detroit & M. Railway Co., and that the parties have endeavoured in vain to get their money.

"I think it unlikely that you would have excluded any obligations from the Schedule of Total Liabilities and Assets of the Detroit & M. R'y, which we have from you, and particularly judgments, so that I am sure I shall be authorized by you to contradict the remark.

"I have been thinking that you would do a wise and prudent thing to begin now to arrange for the short T's by exchanging 8's, or in some time guaranteed way.

"The G. W. R. hold \$80 M. Stephens tells me, and I think I know of \$100,000 that could be easily arranged for in advance; but might be in a very awkward fix if left over. I presume that you will not act till you know further from Mr. Brydges, but if you should decide to act on the hint I now throw out, you can rely on the co-operation of Mr. Roes and anything I can do.

"Let me add merely that in the meeting of these obligations you will find prevention better than cure."

"Yours, faithfully,

"W. H. PARK."

"THOS. REYNOLDS, Esq."

(146.)

Filed by
Defend'ts.

"O. S. ROSS, Esq.,
"Commercial Bank, Kingston.

"DEAR SIR,

"I am favored with your letter of the 28th ult., which I shall take the earliest opportunity of laying before the Board of Directors of this Company. It will, however, be probably thought desirable to defer the full consideration of the important matter it contains, until a full meeting of the Directors can be held, on the return of Mr. Brydges, who is at present in England, but expected to leave for Canada early in this month.

"I am, dear Sir, yours faithfully,
(Signed)

"W. C. STEPHENS,
"Secretary."

(147.) Owing to the
views of the
Bank, as ex-
plained to me
by Mr. Park,
and at his re-
quest, I with-
draw this let-
ter, until he
communicates
with Head Of-
fice.

8 Nov. '59,
Monday.
This letter
withdrawn at
Mr. Park's re-
quest—in fact
not delivered.

"W. H. PARK, Esq.,
"Commercial Bank.

"DEAR SIR,

"The negotiations in England for the new loan for this Company not yet being completed, and as, until funds are provided, it will not, in view of our heavy liability to the Commercial Bank, be prudent to increase our debt, I have to request, that in the probable event of Coupons for Interest on Bonds of the Co., due 15th inst., being presented to you for payment, you will be so good as decline to pay them, requesting the parties to hold them over for a short time, until the Company's financial arrangements admit of their payment.

"I am, dear Sir, faithfully yours,

(Signed) "THO. REYNOLDS, V.P."

(148.)

Filed by
Defend'ts.

"W. H. PARK, Esq.,
"Commercial Bank.

"DEAR SIR,

"I was under the expectation that I should have received from Mr. Brydges, by the English mail delivered this day, some certain information as to the progress made and making by him and our colleagues in London for providing funds for this Co.'s requirements; but it appears that matters were at the date of our letters still incomplete, and it will, I fear, be two or three weeks, if not even longer, ere I shall be in a position to make definite arrangements for providing the funds required to protect the three \$50,000 notes maturing on the 18th inst., and the one of same amount due on the 28th inst.

"GREAT WESTERN RAILWAY,
"HAMILTON, CANADA WEST, 2nd Nov., 1859.

"DETROIT AND MILWAUKEE RAILWAY,
"PRESIDENT'S OFFICE, HAMILTON, CANADA WEST,
"7th Nov., 1859.

"DETROIT AND MILWAUKEE RAILWAY,
"PRESIDENT'S OFFICE,
"HAMILTON, CANADA WEST, 7th Nov. 1859.

"Under these circumstances, I am reluctantly obliged to ask that they be renewed for the longest period compatible with the convenience of the Bank, and if you will be kind enough to bring the question under Mr. Ross' notice, with a view to extension of time, and inform me as soon as possible of his views and wishes, I shall be much obliged.

"I am, dear Sir,

"Faithfully yours,

(Signed)

"THO. REYNOLDS,

"V. P."

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 10th Nov., 1859.

(149.)

Filed by
Defend'ts.

"THOS. REYNOLDS, Esq.,

"Vice-President

"DEAR SIR,

"I beg to own receipt of your letter of the 7th inst., in reference to the \$200,000 special loan by this Bank to the Detroit and Milwaukee R. Co., represented by bills of the Company maturing at the Bank of Commerce, New York: 3 of \$150,000 on the 18th inst., and one of \$50,000 on the 28th idem.

"I am instructed to comply with your request for the renewal of these bills, by notes of the Company maturing here, say 15 December next; the Bonds of the Great Western Railway Co., for an equal amount, being still held by us as collateral until the bill or bills are paid.

"I regret with you that your advices from the President do not furnish the means as yet for the retirement of these bills.

"Faithfully yours,

(Signed)

"W. H. PARK,

"Manager.

"Detroit and Milwaukee Railway Company,

"Hamilton Office."

"14th Nov., 1859.

(150.)

Filed by
Defend'ts.

"W. H. PARK, Esq.,

"Commercial Bank.

"DEAR SIR,

"In accordance with your letter of the 10th inst., I have the pleasure to hand you enclosed, two notes of this Company for \$100,000 each, payable to the order of Mr. Brydges and myself, and due 15th Dec., to take the place of the 3 notes of \$50,000 each, due 15th, and one of \$50,000, due 28th inst.

"I am, dear Sir,

"Faithfully yours,

(Signed)

"THO. REYNOLDS."

(151.)

Filed by
Defend't. "W. H. PARK, Esq.,

"Commercial Bank.

"DETROIT AND MILWAUKEE RAILWAY PRESIDENT'S OFFICE,
"HAMILTON, CANADA WEST, 14 Nov'r., 1859.

"DEAR SIR,

"In consequence of the very strong opinion expressed by Mr. Ross, in his letter to you of the 10th Inst. (which you were good enough to read to me), that the half-yearly Coupons for Interest on the Bonds of this Company, due to-morrow, should be promptly paid; and upon the understanding that the Commercial Bank are to provide the funds with which to reimburse Messrs. Duncan, Sherman & Co., from time to time as the said Coupons shall be paid by them, I have instructed those gentlemen to do the needful; and I now hand you enclosed a list of the denoting numbers and amounts of the whole of the Coupons due to-morrow, for your guidance in paying such of them as may be presented at your Bank.

"I may repeat here, what I had already verbally communicated to you, that the Company's present financial position with, and heavy debts to, the Commercial Bank, had induced me to come to the decision, which I did very reluctantly, that it would not be prudent to increase that debt by paying the half-yearly coupons now maturing; but, as Mr. Ross shows by his letter so conclusively, that he considers it important to the interests of the Bank that no dishonour of the Company's Coupons should occur, I could no longer hesitate as to the proper course to take; for, being so deeply indebted to the Bank, and so much beholden to them for the financial support they have hitherto afforded the Company, I consider Mr. Ross's wishes on this point entitled to the fullest consideration and respect.

"It is, of course, unnecessary for me to record my entire concurrence in Mr. Ross's views as to the damage that would result to the credit of the D. & M. Co., if dishonor to the Coupons for interest on their Mortgage debt occurred. The consideration of that point was a long and anxious one to me; but as our financial arrangements in England were not yet brought to a conclusion, and without pressing upon you for additional means, I was unable to provide the amount of the half-year's interest. And as I am already fully sensible of the heavy weight that the Commercial Bank is carrying for this Co. at this moment, I could not with any regard to justice or propriety have asked you for further help.

"For the sound advice and substantial assistance given in this matter by Mr. Ross, I can only say I offer him the best thanks of myself and colleagues. The amount which may be required for the Coupons will, it is understood between us, go into the general debit balance of the Co.'s acct. with you, to be dealt with whenever the said balance is to be liquidated, and which, it is as much our wish, as I doubt not it is yours, we shall use all possible means to accomplish.

"I am, dear Sir,

"Yours faithfully,

"THO. REYNOLDS,
"V. P."

(152.)

Filed by
Defend't. "THOMAS REYNOLDS, Esq.,

"Vice-President.

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 15th Nov., 1859.

"DEAR SIR,

"I am favored with your letter of yesterday's date, covering renewals, say two notes of \$100,000 each, to retire, by substitution; four other notes of the Company for an equal amount, say three of \$50,000, due 18th,

add \$50,000 due 25th inst., at the Bank of Commerce, New York, and for which we will remit exchange to take them out of the hands of that Bank; and the renewals which are now received (covered by the Great Western Railway bonds as collateral), are payable here, so that the present cost of exchange is the last to the Company on this special loan.

"I remain, dear Sir,

"Yours faithfully,

"W. H. PARK,

"Manager.

"Detroit & Milwaukee Railway Company,
"Hamilton Office."

"COMMERCIAL BANK OF CANADA,
"HAMILTON, 15th November, 1859.

(153.)

Filed by
Defend'ts.

"THOS. REYNOLDS, Esq.

"DEAR SIR,

"Your note of yesterday's date is received with list of notes of yourself and Mr. Brydges, falling due this and following months, for the sum of \$85,000. You will recollect that the advance under this head, was made entirely on the grounds of personal respect for a demand coming from yourself and Mr. Brydges. It was asked as a personal matter, and as such it was given; and you seemed certain that it would be a prompt loan, returnable to the Bank in October last; and such are the conditions in my correspondence with Head Office. Now that both yourselves and the Bank are in a position of disappointment, the best will have to be done; and as soon as Mr. Brydges comes out, these Bills will have to rank in the general arrangement, and form part of the D. & M. debt, to be put in train for adjustment; and as the first due bill is yet distant, they may lie over, as regards consideration, till later in the month.

"Yours, &c.,

"W. H. PARK."

(Private.)

"COMMERCIAL BANK OF CANADA,
"HAMILTON, 16th Novr., 1859.

(154.)

Filed by
Defend'ts.

"MY DEAR SIR,

"Since you were here, I have a note from Mr. Ross, in which he mentions that Mr. Campbell was still in London (at the date of your latest advices), that he had seen Mr. Brydges, and that everything looked bright. Mr. B. said the Broker had no doubt of placing a million, and the circulars were about being got out. Mr. Campbell had met a Director by chance, and he stated the same thing—not a word about the difficulty you referred to this A. M. Mr. B. knows that Mr. A. H. C. is the authorized representative of the Bank in England. Having business that required full powers, the Board put him in possession of them. Now it seems to me, that if Mr. B. were in any serious difficulty he would at once tell Mr. Campbell of it; and if he were under the impression in reference to the arrangement for collaterals, that you and he would at once complain to Mr. C., and apply for the equivalent of what you wish: Mr. C. having full power. Now I prefer to write to you this interim letter, before taking up the commission closing our interview of this morning, as it will be a full month from the interview of Mr. B. and Mr. C., before any action from this side can reach them; and it seems to me quite impossible that Mr. Brydges would be in the position of *not being able to do anything for a while*

month, and not tell the Bank's authorized Inspecting Director that such is the case. Don't you see the vast conflict between the position of Mr. B. before Mr. C., and his position as described by you to-day. I cannot help the comparison, and I may not keep it back, as our intercourse is one of entire candour. Of course you had to represent matters as they were placed before you; but why, in the name of common sense, did not Mr. B. tell Mr. C. of his great dilemma. I can't see through it, but time will reveal. Now, as matters in London have no doubt ere this assumed one or other of the shapes presented by Mr. B. to Mr. U., action on this side would be most uncourteous to the Inspecting Director, without his consent; and the utmost that could be expected from the Cashier would be authority to Mr. A. H. C. to act according to circumstances, explain your wishes. When our authorized representative, in close consultation with yours, and both sincerely desirous of getting this serious matter arranged, does not say a word of the difficulty you speak of, how could you look for the Bank finding a proper reason for the course you wish. Clearly the Cashier has nothing to come before his Board with, and they would only laugh at him. There is no danger of omission on the part of Mr. A. H. C.; and my impression is that it would be better not to bring the discrepancy or apparent want of candour on the part of Mr. B. before our people, to do no good, except to put it on record. Still I will go on if you say so; but my impression that a month was quite sufficient to 'kill' or 'cure' the financial operation about which our respective envoys conversed on the 28th Octr.; and that it had better be left to their wisdom to help each other, and report the difficulties in the way for our guidance on this side. Mr. B.'s silence to Mr. C., would of itself be a sufficient reason for refusal; but mind, the course is as open as this morning it was.

"Yours sincerely,
"W. H. PARK."

(155.)

Filed by "C. J. BRYDGES, Esq.,
Defend'ts.

"LONDON, 23rd Novr., 1850.

"Pres't,

"DEAR SIR,

"I have this day received from you two notes of the Detroit and Milwaukee Railway Co., for twenty-five thousand pounds stg. each,—amount, when paid, to be passed to credit of the Company with the Commercial Bank of Canada at Hamilton.

"Yours truly,
"A. H. CAMPBELL,
"Insp'tg. Direct. C. B. of C."

"Det. & Mil. Ry. Co.

(156.)

Filed by
Defend'ts.

"COMMERCIAL BANK OF CANADA,
"HAMILTON, 30th Novr., 1850.

"OCT'S. COCKAYNE, Esq.,

"Of Detroit & M. Railway Co'y,

"DEAR SIR,

No. D. 6979. "I enclose paid bill by renewal lately passed to credit of the Company, the rebate at discount rate being allowed your Co'y. Also, in the same position, No. D. 7542 p. \$50,000; No. 7543 \$50,000. for \$50,000; and D. 6408, \$50,000; or, in all, \$200,000; the renewals for which are now running under the G. W. Railway collaterals.

"Yours respectfully,
(Signed) "W. H. PARK,
"Manager."

"Hamilton."

"COMMERCIAL BANK OF CANADA,
"HAMILTON, 16 Decr., 1850.

(157.)

Filed by
Defendants.

"THOS. REYNOLDS, Esq."

"Vice-President,

"Detroit & M. Railway Company,

No inclosure.

"DEAR SIR,

"I enclose memorandum of your bills placed to credit this day, with discount only from date.

"The bills, \$14,078 18 and \$13,702 25, are simply placed in Ridley's collaterals, as the originals were; and bills Nos. 434 and 435 are not yet discounted, as we cannot find that the originals ever passed through our books, being only paid at counter to credit of another party. However, if you particularly wish it, I will place them to credit of Co's acct.

"Referring to your letter of the 15th (yesterday), 'Steamboat Acct,' I am not aware that I gave you any the slightest reason to believe that we intended to protest the Steamboat notes, as you say; and the best proof of this is (if proof were necessary), that the \$52,000 is not protested, I said, 'It makes no matter about renewing it, as this bill is at our own office, not at Merchants' Bank. I will just put it to one side till Mr. Brydges comes out. Perhaps his plans may include it in another arrangement.' It is to one side still. Please to make the correction to Mr. Brydges.

"Yours, faithfully,

"W. H. PARK,

"M'r."

"I asked Mr. Sorley to write, as I was much engaged, and your bill is protected."

"GREAT WESTERN RAILWAY,
"MANAGING DIRECTOR'S OFFICE,
"HAMILTON, C. W., 31st Decr., 1850.

(158.)

Filed by
Defendants.

"DEAR SIR,

"As arranged, when we saw you here on the 20th inst., we immediately placed ourselves in communication with other Banks for the purpose of, if possible, making arrangements to transfer our account, and that of the Detroit and Milwaukee, so as to secure your Bank the relief you desired.

"We applied first to the Bank of Montreal, and afterwards to the Bank of Upper Canada, but without being able to effect an arrangement with either.

"We take the earliest opportunity, after receiving the final decision upon our application, to acquaint you with the result; and we can only now express our regret that we have been unable to make those arrangements which you desired.

"Mr. Park is generally informed as to the arrangements of the D. & M. Co., and has, we believe, communicated the facts to you; but we think it better to place the matter fully before you, and we therefore now enclose you a statement shewing the monthly liabilities for next year, with the assets, which we have every reason for believing we may calculate upon. We send this in order that you may exactly understand the exact position of the matter, in deciding what course you will now take.

"The expenditure on Great Western acct. from the 1st Jan'y, will be simply the charges for the working of the line—the payment of the interest due on the Co's Bonds in England, as provided for up to the end of this year; but from and after the 1st Jan'y, 1860, the only source from which the Co. can pay its interest, will be by remitting from this country the net revenue of the line; and this, of course will have to be done. There is, of course, therefore, no statement of liabilities and assets to make on the Great Western account.

"It is our duty now to request you to return to this Co. the Bonds of the Great Western Co. for \$200,000 placed in your hands as collateral security for an advance obtained from a New York Bank on a similar amount of the D. & M. Co's notes. Those notes have been returned by you; and, under the arrangement made at the time, as is clearly set forth in the correspondence, those Bonds are now to be returned to this Co. It is useless to enter into any further discussion upon the question here; but we must frankly say that a refusal on the part of the Bank to give up the Bonds in question, will most seriously complicate the arrangements now in progress for relieving you from the advances which you are now under to the D. & M. Co.

"Upon hearing from you, I shall at once make an appointment with you, at any time or place most convenient to discuss the whole question as to what course is to be taken under the circumstances in which we are now placed.

"We are, dear Sir,

"Yours faithfully,

(Signed)

"C. J. BRYDGES,

"THO. REYNOLDS."

"C. S. Ross, Esq.,

(159.)

Filed by
Defend'ts. "DEAR SIR,

"GREAT WESTERN RAILWAY,

"MANAGING DIRECTOR'S OFFICE,

"HAMILTON, CANADA WEST, 13th Jan'y, 1860.

"As promised, when we saw you at Kingston, on Tuesday and Wednesday last, we called a Board meeting for this day, and fully reported what passed between us. We now beg to acquaint you that our Board fully confirmed and adopted the ground which we took in our discussions with you, and therefore, of course, felt themselves precluded from agreeing to your proposal, to give you bills of exchange, drawn by this Co. upon the Detroit and Milwaukee Co. for an amount sufficient to cover your advances to the latter Co. It is right that we should add, that the Board finds, upon examination, that this Co. has no power to become parties to bills of exchange or promissory notes of any kind.

"Whilst thus conveying to you the decision which the Board has come to on the proposition which you made to us, we take the opportunity of again repeating that every member of the Board is most anxious that the least possible delay should take place in carrying out the arrangements in contemplation by the Detroit and Milwaukee Railway Co., to raise funds for the purpose of liquidating the advances which you have made to that Co. The members of this Board will use all the influence they possess to bring those arrangements to an early and successful result.

"We are, dear Sir,

"Yours faithfully,

(Signed)

"C. J. BRYDGES,

"THO. REYNOLDS.

"C. S. Ross, Esq.,

"Cash'r, Commercial Bank."

(Copy)

"COMMERCIAL BANK OF CANADA,
"KINGSTON, 10th January, 1860.

(160.)

Filed by
Defendants.

"GENT'N,

"I am favored with your letter of 13th inst., and will communicate to our Directors, on Thursday, the decision of your Board against settlement by bills of exchange, as proposed.

"It appears to me that the questions for decision of our Board will be,—

1st. Shall we proceed to recover at once?

Or, 2nd. In view of evident resolve of G. W. R. Co. to defend suit, which would postpone matters beyond April, shall we wait chances of April arrangements, it being clearly the interest of G. W. R. Co., and of Messrs. Brydges and Reynolds, to avoid publication of particulars, and to see that the debt shall be paid promptly?

Or, 3rd. Shall we address the London Directors of G. W. R. Co., claiming their intervention?

"This is the light in which I think the case should be considered, now that you inform us 'every member' of the Canada Board desires the Bank should be paid as soon as possible.

"Meantime, it is scarcely necessary to say, we again most distinctly and formally dissent from the position recently claimed for the debt due to the Bank, and alluded to in your letter.

"We have instructed Mr. Park on the subject of Nov. 1850 coupons.

"I remain, Gentlemen,

"Yours faithfully,

(Signed)

"C. S. ROSS,

"Cash'r.

"C. J. BRYDGES, Esq., Man'g D'r.

"THO. REYNOLDS, Esq., Fin'l D'r,
"Great Western Railway Co.
"Hamilton."

"THOMAS REYNOLDS, Esq.,

"Vice-President,

"Detroit & M. R. Company,

"DEAR SIR,

"Mr. Campbell having heard that the D. & M. Bonds, \$200,000, hypothecated to the Michigan Southern Railway Co'y, and now deposited in New York, had been attached by the Howards; and that others holding obligations of the D. & M. Co'y, were about to follow suit; he, fearing the result of these moves, went down personally to New York, and attached the whole amount of the \$200,000 8 per cent. Bonds of your Company in the Trustees hands, under a claim for the Interest Bonds due 1 Jan'y instant, unpaid, held by him. This will prevent the Bonds so attached falling into other hands; but it would simplify matters, and prevent all chance of any one else attaching, if the D. & M. Company will assign them now, subject to the claim of the Howards, if any.

(161.)

Filed by
Defendants

"It would seem to be best course for the Co'y to assign, as requested; but, in absence of this, the party holding the claim must proceed in the usual way.

"I am, dear Sir,

"Yours truly,

"W. H. PARK."

"Hamilton, 23rd Jan. '00."

(162.)

Filed by
Defend'ts.

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 8 Aug't, 1860.

"C. J. BAYDOES, Esq.,

"MY DEAR SIR,

"About the Prince's visit to the Western States and the route, Mr. Campbell writes me that he conversed with a friend when in N. York the other day, who had been consulted by Lord Lyons as to the route; and this friend of Mr. Campbell's had advised that, on leaving Canada, going West, the Prince should go direct to Chicago, and recommended his visiting that city. Mr. Campbell says that this would be an excellent opportunity to let it be seen that the D. & M. Line is not a side one, nor a detour, but a *trunk line* to the N. W. States. Mr. Campbell thinks also, with much show of reason, that the Son of a Nation of Sea Kings should take to water, and prefer crossing Lake Michigan to a dusty ride all the way; and he could see Milwaukee, besides the personal acquaintance he would make with one of our largest N. A. Lakes in the crossing—the only chance he will have.

"We think you sh'd make the greatest effort to get such a fact to place before the shareholders of G. W. R., who would thus get a better idea of the value of their property. The Reporters could speak truly of the magnificent country through which the D. & M. R. runs. No doubt you have been thinking in this direction, and working too.

"Yours truly,

"W. H. PARK."

163.)

Filed by
Defend'ts.

"COMMERCIAL BANK OF CANADA,

"HAMILTON, 16 Aug't, 1860.

"C. J. BAYDOES, Esq.,

"MY DEAR SIR,

"I refer the "Pease" Bill matter to Head Quarters for consideration; and embrace this occasion to mention that Mr. Campbell has put in a strong plea in a powerful quarter at Quebec, for a Royal Trip on D. & M. Line, and he hopes that success may attend this side effort to aid you. Mr. Campbell has guaranteed the Road to be in good order, and that your people would run the car through in five hours (185 miles): that Mr.

Brydges would be only too happy, he thought to do all in his power to make the trip pleasant to the Prince and party; and that, if the Travellers wished it, you would place one of your powerful Steamers at the service of the party, either to go over directly to Milwaukee or Chicago—the city to be at their choice.

"He expressed an opinion that you would consent to this, and he hopes that you may be successful in the efforts you are making in this direction.

"Yours very truly,

"W. H. PARK."

"KINGSTON, 30th Aug't, 1860.

(164.)

Filed by
Defendant.

"(Private.)

"C. J. BRYDGES, Esq.,

"DEAR SIR,

"In reference to the proposed Trip of the Prince of Wales over the D. & M. Line, I am happy to say that several of the most influential parties at head quarters are in favor of it, and that the attempt will be made to get it carried out. No opposition will be given to it by the Represent's of the O. T. R. Interests in the Cabinet. The result will entirely depend upon the Gov'r Gen'l; and the matter will be put in the shape of this Line having been built by the G. W. R., and being in effect a *Canadian Line*. I understand that the main difficulty, or at least one of them, is the difference in time between Detroit and Chicago by the two routes. Now, supposing that he went to Grand Haven, and from thence straight to Chicago in your fastest steamer, how long would it take? And how long would the Mich'n Central take to run him through by Express Train? Then again, how long would it take to go to Milwaukee, and thence by Rail to Chicago? Not that I think he would take this course; but it is well to have the time. I may probably have some of the Executive staying with me next week when the Prince is here, and should like to have the above information to use at the proper moment. Please remember that I don't want the time as per Time Bills when arriving at one hour means another. I want to know what you can do, and what you will do, weather permitting, and also the real time the Central would take, and which may be judged from by the speed they did at that Convention at Chicago, when I believe they did the distance in good style. Give me the true time, and leave me to add or subtract the minutes.

"I believe Mr. Park communicated to you fully my opinion of the importance of the scheme, and that you fully agree with me therein. I need not therefore say more about it, save that I believe it will do as much to satisfy the shareholders in England that they have got something worth having in the D. & M. Line as anything else that could occur. I need scarcely say how absolutely necessary it is that no idea of this object should be allowed to leak out, as, if it did, an effectual stop would be put to it, as the Gov'r Gen'l would say that he would not lend himself to anything so very like a stock-jobbing transaction. The great argument is, its being a Canadian Line, and the pleasure of a sail on Lake Michigan in a fine steamer.

"Please let me have the above information by Tuesday morning.

"I am, Dear Sir,

"Yours faithfully,

"A. H. CAMPBELL."

(198.)

Filed by
Defend'ts.

"\$50,000

"B. R. 2,179.

Due, 27-30 Oct., '59.

C. R. 7,295.

D. 5815.

"OFFICE OF THE DETROIT AND MILWAUKEE RAILWAY COMPANY,
"DETROIT, 27th June, 1859.

"Four Months after date, the Detroit and Milwaukee Railway Company promises to pay to the Order of
W. H. Park, Manager at the Merchants' Bank, New York, Fifty Thousand Dollars, value received.

"No. 328.

"C. J. BRYDGES, President.

"THO. REYNOLDS, V-President."

"C. O. TROWBRIDGE, Secretary.

(Endorsed)

"44,688.

"W. H. PARK,

"Man'r.

"Pay to the Order of the Merchants' Bank, N. Y., value in
Acc't with the Commercial Bank of Canada.

"C. S. ROSS, Cash'r.

"Renewed per No. 374. Due 25-28th Feb'y, 1860.

even (in all two hundred Thousand Dollars), and hypothecated by said Detroit and Milwaukee R'y Co., as
security for their Promissory Notes for a similar amount, discounted in May, 1859.

"I am, Gentlemen,

"Your most obed't Serv't,

(Signed)

"A. H. CAMPBELL,

"Cash'r."

(167.)

Filed by
Defend'ts.

"THOMAS REYNOLDS, Esq.,

"Hamilton,

"COMMERCIAL BANK OF CANADA,

"Kingston, 12th October, 1860.

"DEAR SIR,

"From a letter received from Mr. Park, it appears that there is some misunderstanding between us in
regard to the payment we expected you to make on the Steamboat Notes Accounts. The agreement made
last winter was that \$1,000 a week were to be deposited on account of them, in addition to which, when it was
arranged to remove the G. W. R. & D. & M. accounts to this Bank, I requested that you should apply the
money you intended for retiring the balance of the Buffalo notes due in August to the same account, and that
we would purchase the Buffalo notes and hold them, secured as they were by mortgage over the vessels. When
the removal of the accounts was first spoken of, Mr. Brydges mentioned the Buffalo notes falling due on 15
Aug., and said that you might ask us for a loan of \$15,000, for thirty days, to make up the amount then due.
To this we agreed. The accounts not being renewed until October, and nothing being then said about an advance

W. H. Park 227 64
C. H. Sorley 43 40
E. & J. C. Moore
\$6,808 22

"Yours, truly,

(Signed)

A. H. CAMPBELL,

"Cash'r."

"DETROIT AND MILWAUKEE RAILROAD PRESIDENT'S OFFICE,
"HAMILTON, CANADA WEST, 31st Dec., 1860.

(168.)

Filed by
Defendant.

"C. S. Ross, Esq.,
"Commercial Bank,

"DEAR SIR,

"In accordance with an arrangement entered into between your Mr. Campbell and Mr. C. J. Brydges, in London, England, in Nov., 1850, by which it was agreed that the \$200,000 of this Company's Bonds, then in the hands of the Michigan Southern Railway Co., should, on being obtained from that Co., be held subject to the order of the Commercial Bank as collateral security for all or any claims the Bank has upon this Company, and in consideration of your having this day, on behalf of the Commercial Bank, released Mr. Brydges and me from our personal liability on the notes of the D. & M. Co. for \$200,000 endorsed by us, and in further consideration of your having given up to the Great Western Co. \$200,000 of said Company's Bonds, originally deposited as temporary collateral security with the D. & M. Co. notes of same amount above referred to, I herewith hand over to you \$200,000 D. & M. Bonds, as follow, viz.:-

Filed by
Plaintiffs
Dr.

STATEMENT HAMILTON OFFICE OF THE COMMISSIONER
5th Jan'y,

Cash as per Statement annexed	\$684,604 73
Bank of Montreal	
Bank of New York	
Bank of Upper Canada	
Gore Bank	\$1,983 75
Niagara District Bank	
Zimmerman Bank	1,116 88
Charges Account	
Interest Account	122 83
Bills Receivable	153,863 73
Notes Discounted	{ N. D. ----- \$312,681 48 G. W. R. Bills 18,569 98
Notes in Default	832,231 46
Notes in Suit	12,886 49
do. St. Catharines	29,627 80
Bills Receivable	1,027,459 48
Building ac.	5,972 40
Credit Accounts, viz.,	
James McMillan	\$4,091 05
W. D. M. Osborne	19,071 49
Hamilton, Davis & Co.	11,011 37
Great W. Railway Co'y	285,293 64
do. D. & M. ac.	10,000 00
	310,067 54
	\$1,996,621 06

RECAPITULATION.

Notes Discounted	\$312,681 48
Notes in Default	15,669 98
Notes in Suit	\$682,231 46
Credit Accounts	12,886 49
Remittances not matured	29,627 80
	310,067 54
	153,863 73
	\$1,887,623 17

" We are this morning favoured with your letter to Mr. Ross, of date 31st Dec'r last. There is a slight mistake in the wording of it which might some day cause misapprehension.

" In the second line from the bottom of the first page, you say that the Bonds were to be handed over as collateral, for claims "upon this Company," which would mean the new Corporation, your letter being headed D. & M. Railroad Co'y; whereas, the arrangement having been made before the old Co'y became defunct, the sentence ought to have read claims "upon that Company," whilst the words "\$200,000 of this Company's Bonds," in the fifth line of the same page, ought to have read "\$200,000 of the Det. & Mil. Railway Co.'s Bonds." I return the letter for correction of these errors, and am,

" Dear Sir,

" Yours truly,

" A. H. CAMPBELL,

" Cash'r.

" P. S.—Please add to the letter also—and we hereby agree to execute any further document which may be found necessary to the Commercial Bank of Canada holding these said Bonds as collateral security for any claims the Bank may have in respect of debts of said Detroit and Milwaukee Railway Company."

Ledger from 20 Sept. 1859 to 29 Decr. 1859.

"Great Western Railway Company."
 "Detroit & Milwaukee Railway Company account"

Index to this Ledger under the letter D is as follows.

"Detroit & Milwaukee R. R. Coy 159."

*The Headings of the two Pass Books produced by
 the defendants and referred to in Mr. Park's evidence.*

(203)

Pass Book shewing account from 30 Decr. 1857 to 1 Decr. 1858, is as follows.

Dr. The "Detroit & Milwaukee" R. R. Co. in ac. with the Commercial Bank of Canada." Cr.

Pass Book shewing account from 1 Decr. 1858 to 6 March 1860, is as follows:

Dr. The Detroit & Milwaukee R. R. Co. in ac.
 with the Commercial Bank of Canada. Cr.

DETROIT AND MILWAUKEE RAILWAY COMPANY.

(171.)

Department

Account. Filed by Defend'ts

THE DETROIT & MILWAUKEE RAILWAY COMPANY.

To COMMERCIAL BANK OF CANADA, HAMILTON BRANCH, Dr.

DATE	DESCRIPTION OF WORK DONE OR GOODS SUPPLIED.	DOLLARS	CTS.
1859. Mch 24.	For this amount on account of Overdraught due by said Company to this Office, said amount payable per a cheque on the Windsor Branch. Transfer of Funds from Windsor to Hamilton.	7,000	00

I HEREBY CERTIFY, that the above account, amounting to Seven Thousand Dollars, is correct, has not previously been certified, and should be paid.

S. E. PITTMAN,
 Head of Department.

Dated, Mch. 24, 1859.

\$7,000. Received of the Detroit & Milwaukee Railway Company, the sum of Seven Thousand Dollars, to be placed to the credit of the said Co. in their account.

C. H. BORLEY,
 Per Recr

Dated Hamilton, 26th March, 1859.

March 6 ...	273 99				
6 ...	2 05			790,901 73	20 15,938.020
26 ...	282 66				
26 ...	2 12			797,186 51	15 11,957.790
April 10 ...	159 46				
10 ...	1 19			797,347 16	10 7,973.470
20 ...	324 44				
20 ...	2 43			797,674 03	56 44,669.744
June 15 ...	302 00			797,976 03	81 64,636.056
Sept. 4 ...			797,976 03		
					195,388.777

Filed by
Defendant

DETROIT AND MILWAUKEE RAILWAY COMPANY.

Department

Account.

THE DETROIT & MILWAUKEE RAILWAY COMPANY.

Co COMMERCIAL BANK OF CANADA, HAMILTON, Dr.

DATE.		DESCRIPTION OF WORK DONE, OR GOODS SUPPLIED.	DOLLARS	CENTS
1859. June	21.	For this amount on acct. of Overdraught at this Bank, payable per Cheque on Windsor (Transfer of funds from Windsor to Hamilton.)	\$,000	00

I HEREBY CERTIFY, that the above account, amounting to Five Thousand Dollars, is correct, has not previously been certified, and should be paid.

R. H. PITTMAN,
Head of Department.

Dated June 21, 1950

\$5,000. Received of the Detroit & Milwaukee Railway Company, the sum of Five Thousand Dollars, to credit in acct.

W. H. PARK,

Dated Mem., June 27, 1859.

At a General Meeting of the Shareholders of the Great Western Railway of Canada, held at the London Tavern, Bishopsgate Street, London, on Thursday, April 11th, 1861, at 12 o'clock, Robert Gill, Esq. President of the Company, in the chair, the Secretary read the following Advertisement calling the meeting, viz:—

Notice is hereby given that a meeting of Shareholders will be held on Thursday, the 11th day of April next, at the London Tavern, Bishopsgate Street, London, at twelve o'clock precisely, for the purpose of considering the reports and general statements of accounts for the half years ending 31st July 1860 and 31st January 1861, and also the Report of the Committee of Investigation, with the reply of the Directors, preparatory to their submission to the legal meetings to be held in Canada.

And Notice is further given that the books kept at this office for the registration and transfer of shares will be closed on and from the 4th to the 11th day of April next, both days inclusive, and transfers will not be registered between these dates.

By order.

BRACKSTONE BAKER,
Secretary.

No. 126 Gresham House, Old Broad Street, E. C.
March 30, 1861.

The Minutes of the Ordinary General Meeting of Shareholders held in London on April 4th, 1860, the resolutions then adopted having been also adopted at the Statutory Adjourned General Meeting of Shareholders held in Hamilton, Canada West, on May 1, 1860, were read and approved.

“DETROIT & MILWAUKEE RY CO.

(175.)

Filed by
Plaintiff.

“To the Manager of the Commercial Bank of Canada

“At HAMILTON, 16th Jan'y, 1858.

“No. 2.

“Pay to Pay Roll act. Wages, or Bearer, Four Thousand Dollars & — Cents.

“C. J. BRYDGES.

“THO. REYNOLDS.

“\$4000.”

“DETROIT AND MILWAUKEE ACT.

(176.)

Filed by
Plaintiff.

“To the Manager of the Commercial Bank of Canada

“At HAMILTON, 18th January, 1858.

“No. 3.

“Pay to Pay Roll on Act. of Wages, p. G. H. Mingay or Bearer the sum of Fifteen thousand dollars.

“C. J. BRYDGES.

“THO. REYNOLDS.

“\$15,000.”

(209.) Received the cheques of the Great Western R. R. & D. & M. ac. to date.

EDMOND JOY.

27th August.

Recd chs of G. W. Railway Co. to 16th Decr.

EDMOND JOY.

Received the cheques of the Great Western and Detroit and Milwaukee R. R. Coy. to date.

MATTHEW HARNEY.

18 Sept. 1858.

Received the vouchers of charges against accounts of G. W. Railway Co. & D. & M. ac. to 14th day of December, 1859.

MICHAEL JOY.

"Pay to dft. order of Daness, Sherman & Co., on N. Y., Forty-three thousand five hundred and sixty $\frac{1}{4}$ dollars.

"\$43,510 $\frac{1}{4}$."

"C. J. BRYDGES, President.

"THO. REYNOLDS, V.-Pres.

"C. C. TROWBRIDGE, Secretary."

"Est'd. S. E. PITTMAN, Accountant."

(179.) "No. 1028.

Filed by
Plaintiff.

"DETROIT AND MILWAUKEE RAILWAY.

"Dec. 14th, 1858.

"Commercial Bank, Hamilton, C. W.

"Pay to the Paymaster, G. H. Mings, or Order, Twenty thousand five hundred and one $\frac{1}{4}$ dollars.

"\$20,501 $\frac{1}{4}$."

"C. J. BRYDGES, President.

"THO. REYNOLDS, V.-Pres]

"C. C. TROWBRIDGE, Secretary."

"Est'd. S. E. PITTMAN, Accountant."

Feb'y. 2.	By	8	518 46	"	1054 78
3.	"	7	636 25	"	340 50
4.	"	9	285 86	"	340 50
"	To	10	1000 00		336 42
"	"		4 17		

This account indexed in Ledger under Letter D, thus "DETROIT & M. R. & Co., 140, 287."

EXTRACTS

(212.)

FROM REPLY OF PRESIDENT AND DIRECTORS OF GREAT WESTERN RAILWAY COMPANY TO
REPORT OF COMMITTEE OF INVESTIGATION.

DETROIT AND MILWAUKEE RAILWAY.

CHARGES OF THE COMMITTEE CONCERNING THE BOND ISSUE.

It is necessary that all who are not thoroughly familiar with the position of the Great Western Railway should refer to the map appended to this statement, in order to obtain a clear view of the character of the Line of which your Directors are now about to speak.

" To the Manager of the Commercial Bank of Canada

" At HAMILTON, 27th February, 1858.

Filed by
Dubouche

" No. —

" Pay to Exchange on N. Y. draft or Bearer, Thirty dollars.

" Detroit & Milwaukee account."

" \$30.

" To the Manager of the Commercial Bank of Canada

" At HAMILTON, 23rd March, 1858.

(183.)

Filed by
Dubouche

" No. —

" Pay to Exchange on N. Y. draft or Bearer, Twenty-six $\frac{1}{4}$ dollars.

" Detroit & Milwaukee acc't.

" Per C. H. B."

" \$26 $\frac{1}{4}$.

" To the Manager of the Commercial Bank of Canada

" At HAMILTON, 3rd May, 1858.

(184.)

Filed by
Dubouche

" No. —

" Pay to Exchange on Dft. 6,626, or Bearer, Thirty dollars, and charge Detroit and M. R. R. Co.

" \$30."

of a Line from Detroit to Lake Michigan and Milwaukee is of the first importance.

It was in consequence of such considerations and Reports as these that the Directors of your Company thought it right to give every encouragement and assistance to the Detroit and Milwaukee. Early in 1856, a traffic arrangement was entered into between the two Companies, and the English Board of the Great Western agreed to afford the Detroit and Milwaukee Company their assistance in obtaining capital to complete their Line. The object was not immediately successful, because the Great Western themselves were issuing new Shares which appeared to capitalists to offer superior advantages, and which they therefore took in preference to subscribing to the capital of the Detroit and Milwaukee. At a later period however of the same year, the Great Western had obtained its capital, and it was then determined to endeavour to float the Detroit and Milwaukee. The first attempt was in February, the second was in July, 1856. In the intermediate period, negotiations had been entered into by the Detroit and Milwaukee Board with Mr. Wythes, the great contractor, to take up and complete certain portions of the Line. The Railway was 185 miles long; of these it was proposed to Mr. Wythes to complete 75 for a sum of £500,000, to be paid half in shares, and half in cash, when Mr. Walker, the Chairman of the Detroit and Milwaukee, again applied to the Board of the Great Western to assist his Line in floating their Bonds. Upon the assurance that the contract with Mr. Wythes had been entered into, the Board consented to issue a circular amongst their Shareholders, and to recommend them to take up the bonds as a matter of importance and benefit to the Great Western itself. The Board however took such precautions as suggested themselves for the protection of the parties interested. A part of their resolution to send out the circular ran as follows:—

"Before the above-mentioned Circulars are issued, the Secretary to be satisfied that the contract with Mr. Wythes to complete the Detroit and Milwaukee Railway is executed by both parties, and that Mr. H. N. Walker has legal power on behalf of the Detroit and Milwaukee Directors."

The Secretary did satisfy himself upon these matters, and there are now in the offices in London properly certified copies of the authority under which Mr. Walker was acting, as well as of the contract entered into on the part of the Detroit and Milwaukee Company with Mr. Wythes, and of a Resolution of that Board, under the corporate Seal of the Company, confirming the contract.

Filed by
Dubuque Co

No. 2812 } D.
1856

"At HAMILTON, 16th September, 1856.

"Pay to Notes Discounted or Bearer, Thirty-five thousand dollars.

"\$35,000.

"Charge Detroit & Milwaukee R. Ry. Co."

(185.)

Filed by
Platonic

No. 2886.

"GREAT WESTERN RAILWAY COMPANY

"HAMILTON, 16th September, 1856.

"To the Commercial Bank of Canada:

"Pay to Port Haron & Milwaukee Ry. Co., per Commercial Bank, W. U. S., or Order, Forty thousand dollars.

"£10,000 Hk. Cy.

"\$40,000.

"C. J. BRYDGES,
"THO. REYNOLDS, } Directors.

"W. C. STEPHENS, Secretary.

"Est'd. THOMAS MUIR, Accountant."

(Endorsed thus):

"At credit of the D. & M. account,

16 Sept. '56.

"W. H. PARK,

"Man'r."

revenue. Considering the financial position of Europe and the probability that the Detroit and Milwaukee Company should need a loan, or that they should ask the Great Western of Canada for such assistance.

These and other representations tallying so much with the opinions of your Board, derived from official sources, your Directors, at the meeting of Great Western Shareholders, held in London on the 8th of October, 1857, proposed:—

"That the Directors should be authorized to advance to the Detroit and Milwaukee Railway Company such an amount, not exceeding £150,000, as may be necessary to secure the completion of the Railway across Michigan, in connexion with the Great Western of Canada, such advance being made as a temporary loan on sufficient security, the expenditure of the same being subject to the control of the Great Western Railway."

This resolution was unanimously adopted by one of the largest meetings of Great Western of Canada Shareholders that was ever assembled, and it should be mentioned that, previous to the meeting, a circular had been issued to each Shareholder saying, that as financial measures of great importance were proposed to be brought before them as stated in the Report, each proprietor was requested, if unable to attend, to give his individual opinion.

II. *The Security obtained.* It is imputed to your Directors that in recommending their Shareholders to make this loan they did not take sufficient precautions to ascertain the position of the Detroit and Milwaukee Company, or to secure the proper application of the money.

It is further stated by the Committee, that—

"Three days before the Meeting of Shareholders Mr. Brydges received a letter from Mr. Trowbridge, the Secretary of the Detroit and Milwaukee Company; and which letter he says he laid before the Great Western Directors, containing a report upon the state of the Company's affairs at that time wholly at variance with all previous statements furnished to the Great Western Directors, and with the representations of the Chairman at the Meeting of Shareholders."

"£25,000, H's C'y.

"\$10,000.

"W. C. STEPHENS, Secretary.

"Ent'd. THOMAS MUIR, Accountant

(Endorsed thus):

"JAMES HENRY MINGAY,

A Paymaster, G W R

"THO. REYNOLDS,

Directors

"GREAT WESTERN RAILWAY COMPANY

"HAMILTON, 19 March, 1859/

(101.)

Filed by
Deborah's

"No. 89.

"The Commercial Bank of Canada.

"Pay to Detroit & Milwaukee R'y Co., or order, Fifty thousand dollars.

THO. REYNOLDS,

C. J. BRYDGES,

Directors.

"\$50,000.

"W. C. STEPHENS, Secretary, W. H. PARK,

"Manager.

"Ent'd. THOS. MUIR, Accountant.

THO. REYNOLDS.

(Endorsed thus):

"W. H. PARK,

"Man'y."

they may deem satisfactory, to close up existing sub-contracts for works, Mr. Wythes having expressed his willingness to relinquish his contract on payment of a balance not exceeding £5,000 due to him, or to stop all further expenditure on the works except what is actually necessary for working the Line, or to cause the continuance of the works to be proceeded with as far as or beyond the Grand Rapids, it being well understood that the basis of any advance of funds by the Great Western Railway for this purpose is that the expenditure shall be wholly under the direction and control of Mr. Brydges and Mr. Reynolds, and that such outlay shall not in any manner be jeopardized by the claims of existing creditors of the Detroit and Milwaukee Company.

Armed with this authority, Mr. Brydges left England on the 14th and arrived in New York on the 26th November, 1857, to take such steps to secure the completion of the Line as, after due investigation and successful arrangements with the creditors of the Detroit and Milwaukee Company, he and Mr. Reynolds might consider most desirable. Immediately on his arrival in America, these gentlemen applied themselves to carry out the orders of the Board; and, on the 28th December, 1857, they addressed their first detailed Report upon the subject to the Board in London, stating the arrangements they had made with the secured creditors for the postponement or payment of their debts and also for the carrying on of the works, so as to effect the immediate completion of the Line.

Whilst Messrs. Brydges and Reynolds were thus occupied in carrying out the objects for which this Loan was made, they also engaged themselves in obtaining security for the repayment of the money. That security was certainly as complete as the Detroit and Milwaukee Company could offer. A third mortgage was effected in favour of three members of the Canadian Board of the Great Western Railway, securing to those gentlemen, as Trustees, the whole of the Detroit and Milwaukee Line, and placing the whole of its affairs in the entire control of Directors, to be nominated from time to time by the Great Western Company, the deed of mortgage being most stringent in its covenants.

About this time, the embarrassed state of the London money market began to interfere so seriously with the contemplated arrangements for advancing money to assist the Detroit and Milwaukee Company, that the Directors wrote to Mr. Brydges the letter of December 18th, 1857, referred to by the Committee, impressing

" Pay Commercial Bank of Canada, for credit
of Detroit & Milwaukee Railway Co., or order.

" THO. REYNOLDS,

" Vice-President, D. & M. R'y Co.

" Placed to credit of the Detroit & Milwaukee
Railway Co., 15 October, 1859.

" C. H. BORDWY,

" Cashier."

(104.7)

Filed by
Debit Co.

" GREAT WESTERN RAILWAY COMPANY

" No. 807

" HAMILTON, 15 November, 1859

" The Commercial Bank of Canada

" Pay to Detroit & Milwaukee Railway Co., or

" Cashier, do.

" \$25,000.

" W. C. BRIDGES, Secretary.

" Rec'd. THOS. MUIR, Accountant.

(Endorsed thus):

" Pay Commercial Bank of Canada, or order,
for credit of Detroit and Milwaukee R'y Co.

" THO. REYNOLDS,

" V. P., D. & M. R'y Co.

" THO. REYNOLDS,

" JOHN YOUNG,

} Directors.

Half-year ending 31st July, 1859.....	59,591 01
" 31st January, 1860.....	87,728 44
" 31st July, 1860.....	85,097 64
" 31st January, 1861.....	115,223 00

They state also that this additional traffic has been carried without the necessity of running any additional trains.

If, instead of securing this Detroit and Milwaukee Line, your Directors had neglected to obtain the control of it, and had allowed it to pass into other hands, what then, they will venture to ask, would have been the position of the Great Western Company? The Grand Trunk would have been in competition with us at Detroit under circumstances of great advantage to that Line. The trade of the northern portion of the State of Michigan, now secured to our Company, might have been carried by the Grand Trunk, and in so far the through traffic of the Great Western would have been materially damaged.

III. *The Charge against your Directors.* But the Committee of Investigation have reported to you that your Directors were bribed by the Detroit and Milwaukee Company to effect these arrangements.

The Committee allege this bribe to have been administered in the form of a gratuity of £2,400 to be paid "to the members of the London Board, and the staff at the office," together with 100 Shares of the Detroit and Milwaukee Company, "fully paid up," which were transferred into the names of "each of the Six Great Western Directors."

The simple facts are these:—

By the arrangement under which the Detroit and Milwaukee Railway was placed in the sole control and management of the Great Western Company, it was agreed that the London Directors of the Great Western Company, as well as Messrs. Brydges and Reynolds in Canada, should become Directors of the Detroit and

" B. R. 319 Date, June 27th, 1860 100. C. B. 6655 D. 3565.

" \$50,000

" Order on the Detroit and Milwaukee Railway Company,
" Dated, July 24th, 1860

" By the Merchants' Bank, the Detroit and Milwaukee Railway Company promises to pay to the Order of
W. H. PARK, Manager, Com'l Bank of Canada, at the Merchants' Bank, New York, Fifty Thousand Dollars,
value received.

" No. 351.

" C. J. BRYDGES, President,
" THO. REYNOLDS, V. President

" (Endorsed)

" \$5,440.

" Pay C. B. Ross, Cash, or Order.

" W. H. PARK

" Mgr.

" Pay to the Order of the Merchants' Bank, N. Y., value in
Am't with the Commercial Bank of Canada.

" C. B. ROSS, Cash.

" Renewed, June 7, '60.

(187.)

Filed by
Defend't. "\$50,000.

"B. R. 304. Due, June 22nd, 1859. C. B. 6949. D. 3541.

"OFFICE OF THE DETROIT AND MILWAUKEE RAILWAY COMPANY,
"DETROIT, Feb'y 19th, 1859."Four Months after date, the Detroit and Milwaukee Railway Company promises to pay to the Order of
W. H. Park, Manager Com'l Bank of Canada, at the Merchants' Bank, New York, Fifty Thousand Dollars
value received.

"No. 250.

"C. J. BRYDGES, *President*.
"THO. REYNOLDS, *V-President*.

(Endorsed)

"\$8,406.

"Pay C. S. Ross, Esq., Cashier, or Order.

"W. H. PARK,

"Man'r.

"Pay to the Order of the Merchants' Bank, N. Y., value in
Acc't with the Commercial Bank of Canada."C. S. ROSS, *Cash'r.*

"Not paid, but renewed, as per Co.'s Note, No. 327, due Oct. 22-25, '59."

(188.)

Filed by
Defend't. "\$50,000

"B. R. 2,179. Due, 27-30 Oct., '59. C. B. 7,295. D. 5815.

"OFFICE OF THE DETROIT AND MILWAUKEE RAILWAY COMPANY,
"DETROIT, 27th June, 1859."Four Months after date, the Detroit and Milwaukee Railway Company promises to pay to the Order of
W. H. Park, Manager at the Merchants' Bank, New York, Fifty Thousand Dollars, value received.

"No. 328.

"C. J. BRYDGES, *President*.
"THO. REYNOLDS, *V-President*.""C. C. TROWBRIDGE, *Secretary*.

(Endorsed)

"\$4,688.

"W. H. PARK,

"Man'r.

"Pay to the Order of the Merchants' Bank, N. Y., value in
Acc't with the Commercial Bank of Canada."C. S. ROSS, *Cash'r.*

"Renewed per No. 374. Due 25-28th Feb'y, 1860.

NOTES IN DEFAULT AT HAMILTON OFFICE, Tuesday, 5th January, 1858.

(199.)

Filed by
Plaintiffs.

B. Carpenter	Joel Carpenter & Co.	Aug. 4, 1857	\$1,401 07
Hendershott & Wilkins on	Lathrop & Smith	Oct. 26, "	1,040 75
id.	id.	Nov. 4, "	2,000 75
D. Williamson	J. R. N. Cartin	6, "	1,001 02
J. G. Derby	on Lathrop & Smith	7, "	1,040 75
D. Williamson	L. Smith	11, "	1,001 07
Hendershott & Wilkins on	Lathrop & Smith	Dec. 8, "	2,080 75
P. Spohn	Spohn & Start	7, "	880 88
id.	id.	29, "	1,809 95
			\$12,336 49

OVERDRAWN ACCOUNTS AT HAMILTON OFFICE, 5th January, 1857.

D. Campbell	\$226 00
F. Cresswell, jr.	229 05
Æ. Irving, Sol. G. W. R. R.	6,197 52
C. D. Grasett	61 15
William Munro	150 45
James Macdonald	45 43
P. N. Rogers	22 21
W. H. Park	104 47
C. H. Sorley	227 64
E. & J. C. Moore	43 40
	\$6,308 22

Filed by
P. H. H. H.

STATEMENT HAMILTON OFFICE OF THE COMMERCIAL BANK OF CANADA, on the Evening of Tuesday, 5th Jan'y, 1858.

Dr.

Cash as per Statement annexed	\$324,004 73	Head Office of Commercial Bank of Canada	\$1,648,928 90
Bank of Montreal		Bank of Montreal	\$3,331 80
Bank of N. America		Bank of N. America	2,111 85
Bank of Upper Canada	\$1,088 75	Bank of Upper Canada	670 91
Gore Bank		Gore Bank	
Niagara District Bank	1,116 83	Niagara District Bank	2,710 27
Zimmerman Bank		Zimmerman Bank	
Charges Account	3,050 58	Deposits Ordinary	14,523 83
Interest Account	122 38	Interest Receipts	107,592 46
Bills Receivable	153,863 73		114,491 12
Notes Discounted		Discount Account	2,200 98
Notes in Default	832,231 46	Interest Account	81 81
Notes in Suit	12,336 49	Commission Account	Com. \$372 75
Notes in Suit	29,627 80		{ G. W. R. " 268 57
do. St. Catharines	1,027,459 48	Great W. Railway Co's	100 82
Bills Receivable	5,972 40		
Building ac.	2,980 00		2,898 56
	12,834 00		100,000 00
Credit Accounts, viz.,			
James McMicking	\$4,091 05		
W. D. M. Osborne	19,871 48		
Hamilton, Davis & Co.	11,011 87		
Great W. Railway Co's	266,293 64		
do.	10,000 00		
	310,067 54		
	\$1,996,621 06		

RECAPITULATION.

Notes Discounted	\$313,651 46
Notes in Default	18,569 98
Notes in Suit	\$332,231 46
Credit Accounts	12,336 49
Remittances not matured	29,627 80
	310,067 54
	153,459 88
	\$1,887,623 17

STATEMENT OF CASH.

Commercial Bank Notes	\$542,073 80
Notes and Cheques of other Banks	34,534 68
Specie	56,006 06
	\$634,004 72
Commercial Bank Notes under \$4	\$97,502 00

EXTRACT FROM MINUTES OF BOARD OF DIRECTORS OF COMMERCIAL BANK.

(200.)

1858, April 1.

"Application from Great Western Railway Coy for a credit of \$100,000 upon 'their Detroit & Milwaukee Account, was submitted and considered. The Board considered that it would be well to authorise a credit of \$50,000 up to 1 July, and thereafter, if really required, a credit of \$100,000, the whole advances to be repaid on or before 1 December next, the understanding being that the aggregate amount of the two accounts of the G. W. Railway Co. will not exceed £50,000 @ £100,000 cy."

Filed by Plaintiffs.

DETROIT AND MILWAUKEE RAILWAY.

(201.)

STATE OF MICHIGAN, UNITED STATES.

Filed by Plaintiffs.

ISSUE OF £250,000, \$1,250,000, £7 PER CENT., MORTGAGE BONDS.

*Convertible into Shares until May, 1865, and Redeemable at Par in May 1875. Interest payable in New York semi-annually on the 15th November and the 15th May.**

PRESIDENT:—THE HON. H. N. WALKER, Detroit, Michigan.

TRUSTEES FOR ENGLISH BONDHOLDERS:

J. B. SMITH, M.P., ROBERT GILL, ALEXANDER BEATTIE, PETER BUCHANAN, *English Directors of the GREAT WESTERN RAILWAY OF CANADA.*

SOLICITORS:—MESSRS. RIXON, SON & ANTON, 38, Cannon Street, City.

BANKERS:—THE LONDON JOINT STOCK BANK, Princes Street, London.

SECRETARY:—C. C. TROWBRIDGE, Esq.

"This line of Railway crosses the State of Michigan, and is parallel with, but at a distance of more than forty miles from, the Michigan Central Railway. At its eastern terminus, Detroit, it connects with the Great Western Railway of Canada, and its western terminus Grand Haven, is opposite Milwaukee, on Lake Michigan. Its length is 185 miles, and in addition to being the highway for an immense traffic running east and west, it traverses a country celebrated for its richness and the extraordinary increase of its population.

"The whole of the land required by the Company has been purchased and paid for, and the Company is the owner of an extensive and valuable river frontage at Detroit, the value of which is estimated at £200,000. Seventy-eight miles of the Line, running west from Detroit, are completed and open for traffic, and is earning a larger dividend than the Michigan Central, or the Michigan Southern, railways (both of which Companies are now paying dividends of 10 per cent. per annum), when a similar portion of their Lines were opened.

"The works on the Line are remarkably easy, and the cost when completed will be about £6,500 per mile. The earth works, bridges and culverts, for thirty-two miles in continuation, have been constructed, and are ready for the rails, which have been purchased.

"Mr. George Wythes, of Reigate, the well-known English Contractor, has entered into a binding contract with the Company to complete the remaining 75 miles of the Line before the first day of August, 1857, for the sum of £500,000, to be paid half in shares and half in cash, thereby ensuring the due and prompt completion of the entire Line of 185 miles for a fixed sum and within the above specified time.

"Of the Capital of the Company, about forty-five per cent. is in shares, all of which are *bona fide* held and paid upon, and the residue is in bonds, about £150,000 of which is charged exclusively on the Detroit and Pontiac, and Oakland and Ottawa Railroads—formerly distinct enterprises, but now amalgamated with this Company.

* The interest coupons on these Bonds are at all times saleable in London at the current rate of exchange with New York.

"The Company have determined, in order to carry out the contract with Mr. Wythes, to issue in England, £250,000 of their 7 per cent. convertible bonds; the sterling price of the bonds will be £108 15s. 0d. for each bond of 1000 dollars, equal to 75 per cent., reckoning the dollar at 4s. 6d.*

"A deposit of £18 15s. 0d. per bond will be required to be paid to the London Joint Stock Bank to the account of the Directors of the Great Western Railway of Canada on allotment, and the residue by the following instalments:—

£30	0	0	on the 6th September, 1856.
30	0	0	" 6th October, "
30	0	0	" 6th November, "
30	0	0	" 6th December, "
30	0	0	" 6th January, 1857.

On the last of such payments the subscriber will be entitled to his bonds in exchange for the provisional receipts, and the bonds will bear interest at the rate of 7 per cent. per annum, from the 15th November next.

"The Subscribers will be allowed interest on the instalments at the rate of 7 per cent. per annum, as well as discount at the same rate on any payment in advance, and the bonds delivered at once bearing interest from the 15th November.

"An exclusive traffic-agreement has been entered into between the Directors of the Detroit and Milwaukee, and the Directors of the Great Western of Canada Railways, under their corporate seals, for the transport of the passengers and goods over their respective Lines; and it is stipulated that, from the receipts of the through traffic, the Directors of the Great Western Railway of Canada shall retain a sufficient sum, as trustees to meet the interest on the bonds now issued. The London Directors of the Great Western Railway of Canada will, as such trustees, be responsible for the due application of the monies thus coming into their hands.

H. N. WALKER,

President D. & M. Railway Company.

LONDON, July 22, 1856.

* The annual interest on each bond will be £14; this, at the price at which the bonds are offered, will yield the Subscribers upwards of 8 per cent. per annum.

*Headings of the Ledgers in the Office of
the Commercial Bank at Hamilton.*

(202)

Ledger containing entries from 30 Decr. 1857 to 8 July 1858.

"Detroit & Milwaukee ac. Great Western Railway."

The Index to this Ledger under the letter D is as follows.

"Detroit & Milwaukee ac. G. W. R. R. 805."

"Detroit & Milwaukee R. R. Co. 804."

Ledger containing entries from July 1858 to 22 Sept. 1858.

"Detroit & Milwaukee Railway."

Index to this Ledger under the letter D is as follows.

"Detroit & Milwaukee Ry—61."

Ledger containing entries from 28 Sept. 1858 to 20 Sept. 1859.

"Great Western Railway Company."

"Detroit & Milwaukee Railway Coy ac."

Index to this Ledger under the letter D is as follows.

"Detroit & Milwaukee R. R. 108."

Ledger from 20 Sept. 1859 to 29 Decr. 1859.

"Great Western Railway Company."

"Detroit & Milwaukee Railway Company account."

Index to this Ledger under the letter D is as follows.

"Detroit & Milwaukee R. R. Coy 159."

*The Headings of the two Pass Books produced by
the defendants and referred to in Mr. Park's evidence.*

(203)

Pass Book shewing account from 30 Decr. 1857 to 1 Decr. 1858, is as follows.

Dr. The "Detroit & Milwaukee" R. R. Co. in ac. with the Commercial Bank of Canada." Cr.

Pass Book shewing account from 1 Decr. 1858 to 6 March 1860, is as follows:

Dr. The Detroit & Milwaukee R. R. Co. in ac.
with the Commercial Bank of Canada. Cr.

(204) DETROIT & MILWAUKEE RAILWAY CO'Y. ACCOUNT GREAT WESTERN RAILWAY CO'Y.

1869.		Forward ...	767,176 06	61,976 62	Dr.	705,194 44		16,338.239
Dec.	23 ...	...	16,427 17					
	23 ...	...	13,237 50					
	23 ...	...	46 07			736,910 18	1	736.910
	24 ...	...	531 14					
	24 ...	...	889 76					
	24 ...	...	1,120 55			739,451 43		
	24 ...	...	738 72			740,190 15	3	2,220.570
	27 ...	...	1,480 37			741,670 52	2	1,483.340
	29 ...	...	600 40			742,270 92		
	29 ...	...	Net * 1,000 00	* 1,000 00		742,270 92	3	1,484.540
			805,247 54	62,976 62				22,263.599
							15	11,134.050
							231	171,464.370
								182,598.420
1860.								
Jan'y	1 ...	Balance ...	742,270 92					
	16 ...		24,529 16					
	23 ...		183 97		Dr.	766,984 05	7	5,368.888
	23 ...		7,810 87					
	23 ...		58 58		"	774,853 50	14	10,847.942
Feb'y	6 ...		4,634 80					
	6 ...		34 75		"	779,523 05	14	10,913.322
	20 ...		16,990 22					
	20 ...		127 42			796,640 69	8	6,373.120
	28 ...			15 00		796,625 69	7	5,576.375
March	6 ...		273 99					
	6 ...		2 05			796,901 73	20	15,938.020
	26 ...		282 66					
	26 ...		2 12			797,186 51	15	11,957.790
April	10 ...		159 46					
	10 ...		1 19			797,347 16	10	7,973.470
	20 ...		324 44					
	20 ...		2 43			797,674 03	56	44,669.744
June	15 ...		302 00			797,976 03	81	64,636.056
Sept.	4 ...	I		797,976 03				105,388.777

(Copy)

"GREAT WESTERN RAILWAY,
"HAMILTON, CANADA WEST, 13/A Oct., 1859.

(205)

"C. S. Ross, Esq.,
"Commercial Bank, Kingston.

The answer to
this letter
is App'x
(141)
page 80.

"DEAR SIR,

"In a statement of account furnished us by the Wyandotte Rolling Mills Company of Detroit, we find that your Branch at Windsor charged 10 per cent. on discounting a sealed bond of this Company for \$90,000, paid to the Wyandotte Company in January last.

"On receipt of the account, and concluding there had been some mistake by your Agent in charging so high a rate, I requested Mr. Zabriskie, the Secretary of the Wyandotte Coy, to see Mr. McDonald, your Agent at Windsor, and get it rectified. Mr. Zabriskie writes me in reply, that he has seen Mr. McDonald, who states that the arrangement was made by you with Mr. Reynolds, and that he had nothing to do with the matter but to follow instructions.

"Mr. Reynolds is aware of having made the arrangement with you to discount the bond, but is convinced you never intended to charge any such rate as 10 per cent. for doing it, and that it will be only necessary to call your attention to the matter to get it put right.

"I am, Dear Sir,

"Yours faithfully,

(Signed)

"W. C. STEPHENS,

"Sec'y."

EXHIBIT No. 206—CHEQUE—*Misaid.*

(206.)

At a General Meeting of the Shareholders of the Great Western Railway of Canada, held at the London Tavern, Bishopsgate Street, London, on Thursday, April 11th, 1861, at 12 o'clock, Robert Gill, Esq. President of the Company, in the chair, the Secretary read the following Advertisement calling the meeting, viz:—

Notice is hereby given that a meeting of Shareholders will be held on Thursday, the 11th day of April next, at the London Tavern, Bishopsgate Street, London, at twelve o'clock precisely, for the purpose of considering the reports and general statements of accounts for the half years ending 31st July 1860 and 31st January 1861, and also the Report of the Committee of Investigation, with the reply of the Directors, preparatory to their submission to the legal meetings to be held in Canada.

And Notice is further given that the books kept at this office for the registration and transfer of shares will be closed on and from the 4th to the 11th day of April next, both days inclusive, and transfers will not be registered between these dates.

By order.

BRACKSTONE BAKER,

Secretary.

No. 126 Gresham House, Old Broad Street, E. C.
March 30, 1861.

The Minutes of the Ordinary General Meeting of Shareholders held in London on April 4th, 1860, the resolutions then adopted having been also adopted at the Statutory Adjourned General Meeting of Shareholders held in Hamilton, Canada West, on May 1, 1860, were read and approved.

The reports and accounts for the half years ending July 31, 1860, and January 31, 1861, were taken as read.

It was proposed by the Chairman and seconded by Mr. Leo Schuster,—

"That the reports of the Directors for the half years ending July 31, 1860, and January 31, 1861, this day submitted, be received and entered on the minutes."

To which, as an amendment, it was proposed by Mr. H. H. Cannan, and seconded by Mr. H. W. Filder,—

"That the proposal of the Directors that a dividend at the rate of 3 per cent. per annum for the half year ending the 31st of January last be confirmed, and that with that exception the consideration of the Directors' half yearly reports, now presented, be adjourned; and that the report of the Committee of Investigation, together with their rejoinder to the reply of the Directors, be received."

On a show of hands being taken for the amendment, the Chairman declared it to be lost; the Chairman then put the original proposition to the meeting, which he declared to be carried.

(208.) A large bundle of letters written between Mr. Park and the clerks of the Commercial Bank at Hamilton, and Mr. Reynolds and his clerks, on the subject of Detroit and Milwaukee Railway Company affairs.

These letters are filed to show the general correspondence and course of dealing; but it is not thought necessary to print them.

(209.) Received the cheques of the Great Western R. R. & D. & M. ac. to date.

27th August.

EDMOND JOY.

Received the cheques of G. W. Railway Co. to 16th Decr.

EDMOND JOY.

Received the cheques of the Great Western and Detroit and Milwaukee R. R. Coy. to date.

MATTHEW HARNEY.

18 Sept. 1868.

Received the vouchers of charges against accounts of G. W. Railway Co. & D. & M. acc. to 14th day of December, 1869.

MICHAEL JOY.

Transcript of Books at the Windsor Agency of The Commercial Bank of Canada.

(210.)

TELLER'S DAY BOOK

February 2nd, 1859.				
140 Detroit & M. R. Co.....	518 48			
February 3rd, 1859.				
140 Detroit & M. R. Co.....	586 25			
February 4th, 1859.				
140 Detroit & M. R. Co.....	285 86	140	D. & M. R. Co.....	4 17
			Detroit & M. R. Co.....	1000 00

Transcript of Books at the Windsor Agency of The Commercial Bank of Canada.

(211.)

LEDGER

Acct. Heading in Ledger thus "DETROIT & M. R. R. Co.

1859.							
Feb. 2.	By	8		518 48	Cr.	518 48	
3.	"	7		636 25	"	1054 73	
4.	"	9		285 86	"	1340 59	
"	To	10	1000 00			340 50	
"	"		4 17			336 42	

This account indexed in Ledger under Letter D, thus "DETROIT & M. R. & Co., 140, 287."

EXTRACTS

(212.)

FROM REPLY OF PRESIDENT AND DIRECTORS OF GREAT WESTERN RAILWAY COMPANY TO
REPORT OF COMMITTEE OF INVESTIGATION.

DETROIT AND MILWAUKEE RAILWAY.

CHARGES OF THE COMMITTEE CONCERNING THE BOND ISSUE.

It is necessary that all who are not thoroughly familiar with the position of the Great Western Railway should refer to the map appended to this statement, in order to obtain a clear view of the character of the line of which your Directors are now about to speak.

The Great Western Railway of Canada runs through the West of Upper Canada from Niagara Falls to Windsor, on the river which connects the upper with the lower lakes of the province. On the other side of that river lies the American State of Michigan, and the important and rapidly increasing city of Detroit. An American Company some years back proposed to carry a Railway across the State of Michigan from Detroit to Lake Michigan on the same principle that the Great Western was carried across the Province of Upper Canada. This Railway, now called the Detroit and Milwaukee, was made in sections. Ultimately it reached, as the Map shows, from the city of Detroit to the important port styled Grand Haven on Lake Michigan, from which it communicated by steam vessels with the port of Milwaukee, in the state of Wisconsin, on the other side of the Lake, a port of the greatest commercial importance as a railway centre, and as the shipping port of the greater portion of the produce of the States of Wisconsin, Minnesota, and Iowa.

A survey of the Map must convince every one that this Detroit and Milwaukee Railway was of the greatest importance as a feeder to the Great Western, of which it is, in fact, an extension of 185 miles. It was calculated to secure for our Line the traffic from the west side of Lake Michigan. But more than this, it presented itself to the Great Western as the means of averting a competition most likely to be injurious to our system. It will be observed, that whilst the Great Western runs on the north parallel of Lake Erie, there is upon the south side of the Lake a series of American Lines called the Lake Shore System, which communicate with Lake Michigan by another American Railway called the Michigan Southern, and that farther south still other Lines exist, connecting Chicago with the Atlantic. Without the Detroit and Milwaukee Railway the produce of the district around Lake Michigan would pass to Chicago, and from Chicago eastward to the ports of shipment, by the American Lines, or by water to Buffalo. By means of the Detroit and Milwaukee Railway, the Great Western can intercept a great part of this traffic, and pass it over its own Line. If, therefore, it is an object with the Great Western Company to secure the trade of the districts bordering on the great Lakes, and of the corn-producing States of Michigan, Minnesota, Wisconsin, and Iowa, the possession of a Line from Detroit to Lake Michigan and Milwaukee is of the first importance.

It was in consequence of such considerations and Reports as these that the Directors of your Company thought it right to give every encouragement and assistance to the Detroit and Milwaukee. Early in 1856, a traffic arrangement was entered into between the two Companies, and the English Board of the Great Western agreed to afford the Detroit and Milwaukee Company their assistance in obtaining capital to complete their Line. The object was not immediately successful, because the Great Western themselves were issuing new Shares which appeared to capitalists to offer superior advantages, and which they therefore took in preference to subscribing to the capital of the Detroit and Milwaukee. At a later period however of the same year, the Great Western had obtained its capital, and it was then determined to endeavour to float the Detroit and Milwaukee. The first attempt was in February, the second was in July, 1856. In the intermediate period, negotiations had been entered into by the Detroit and Milwaukee Board with Mr. Wythes, the great contractor, to take up and complete certain portions of the Line. The Railway was 185 miles long; of these it was proposed to Mr. Wythes to complete 75 for a sum of £500,000, to be paid half in shares, and half in cash, when Mr. Walker, the Chairman of the Detroit and Milwaukee, again applied to the Board of the Great Western to assist his Line in floating their Bonds. Upon the assurance that the contract with Mr. Wythes had been entered into, the Board consented to issue a circular amongst their Shareholders, and to recommend them to take up the bonds as a matter of importance and benefit to the Great Western itself. The Board however took such precautions as suggested themselves for the protection of the parties interested. A part of their resolution to send out the circular ran as follows:—

"Before the above-mentioned Circulars are issued, the Secretary to be satisfied that the contract with Mr. Wythes to complete the Detroit and Milwaukee Railway is executed by both parties, and that Mr. H. N. Walker has legal power on behalf of the Detroit and Milwaukee Directors."

The Secretary did satisfy himself upon these matters, and there are now in the offices in London properly certified copies of the authority under which Mr. Walker was acting, as well as of the contract entered into on the part of the Detroit and Milwaukee Company with Mr. Wythes, and of a Resolution of that Board, under the corporate Seal of the Company, confirming the contract.

LOANS TO THE DETROIT AND MILWAUKEE.

In assisting the Detroit and Milwaukee Company to float their bonds and land shares, it was scarcely possible even for the Committee of Inquiry to contend that your Directors had done anything peculiarly injurious to the Great Western Company of Canada. These matters, therefore, appear mainly to have been brought forward to support the still more serious allegations which follow, to the effect that your Directors most improperly induced you to advance two Loans of £150,000 and £100,000 to the Detroit and Milwaukee Company; that they did so without duly protecting your interests; and, above all, that the members of the Board then in office, with the Secretary and the Registrar, received direct money payments from the Detroit and Milwaukee Company for effecting the arrangement.

Your Directors will consider these charges under the several heads of—*I. The Policy of the Loans. II. The Security obtained for them. III. The Charge against your Board and Officers.*

I. The Policy of these Loans. The attempt of the Detroit and Milwaukee to raise money on their free land shares had proved a partial failure. It was made in July, 1857; and, in September, 1857, the Detroit and Milwaukee Company had fallen into serious difficulties, and on the 7th of that month an application was made to your Board, on the part of the Detroit and Milwaukee Company, for a Loan.

Your Directors continued to be influenced, in 1857 as in 1856, by considerations of the great importance of securing the Detroit and Milwaukee Line in the Great Western interest. Up to the period in question they had confined themselves to circulating the proposals issued in England by the Detroit and Milwaukee Company. Your Directors knew that unless money was obtained from some quarter, the Detroit and Milwaukee Company could not complete their Line and provide rolling stock and stations. They knew also that means must be found by that Company to meet the interest upon their bonds before the Line could be opened and earn revenue. Considering the financial position of Europe and America in the autumn of 1857, it was not surprising that the Detroit and Milwaukee Company should need a loan, or that they should ask the Great Western of Canada for such assistance.

These and other representations tallying so much with the opinions of your Board, derived from official sources, your Directors, at the meeting of Great Western Shareholders, held in London on the 8th of October, 1857, proposed:—

"That the Directors should be authorized to advance to the Detroit and Milwaukee Railway Company such an amount, not exceeding £150,000, as may be necessary to secure the completion of the Railway across Michigan, in connexion with the Great Western of Canada, such advance being made as a temporary loan on sufficient security, the expenditure of the same being subject to the control of the Great Western Railway."

This resolution was unanimously adopted by one of the largest meetings of Great Western of Canada Shareholders that was ever assembled, and it should be mentioned that, previous to the meeting, a circular had been issued to each Shareholder saying, that as financial measures of great importance were proposed to be brought before them as stated in the Report, each proprietor was requested, if unable to attend, to give his individual opinion.

II. The Security obtained. It is imputed to your Directors that in recommending their Shareholders to make this loan they did not take sufficient precautions to ascertain the position of the Detroit and Milwaukee Company, or to secure the proper application of the money.

It is further stated by the Committee, that—

"Three days before the Meeting of Shareholders Mr. Brydges received a letter from Mr. Trowbridge, the Secretary of the Detroit and Milwaukee Company; and which letter he says he laid before the Great Western Directors, containing a report upon the state of the Company's affairs at that time wholly at variance with all previous statements furnished to the Great Western Directors, and with the representations of the Chairman at the Meeting of Shareholders."

In answer to this most serious charge the Directors beg to state that the letter referred to from Mr. Trowbridge was not opened by, or seen by, any Member of your Board till two or three days after the Meeting. Mr. Baker, as well as Mr. Brydges, fully explained to the Committee the circumstances under which this happened, as detailed at length in Mr. Brydges' letter in the Appendix. The assertion of the Committee, therefore, that the Chairman, after having read that letter previous to the Meeting, deliberately made statements to the Shareholders at variance with it, is a groundless and unworthy calumny.

After the authority to make the Loan was obtained, it unquestionably came to the knowledge of your Directors that the Detroit and Milwaukee Company were more deeply involved than they had reported themselves to be when they made their application for the loan. This circumstance, however, only made your Directors more cautious as to the application of the money, and to ascertain whether it would accomplish the main object of opening the Line. They immediately issued instructions that Mr. Reynolds, the financial manager of the Great Western Company, should scrutinize the books of the Detroit and Milwaukee Company. He did so, and reported to your Board on Nov. 2d, 1857, that whatever might be the involvement of the Detroit and Milwaukee Company, the advance of £150,000 would be sufficient to meet the claims of the secured creditors, and open the Line.

Whilst his inquiries were pending, your Directors felt bound to protect the credit of the Company by advancing the money required for the payment of the interest, which they consented to do to the extent of £20,000. With respect to the proper application of the loan, a series of resolutions appear upon the minutes under date October and November, 1857, laying down a strict code of instructions for its disposal, the last of which is as follows:—

"That it be left to the discretion of Mr. Brydges and Mr. Reynolds, after complete investigation of the Detroit and Milwaukee accounts, and after having made such arrangements with the creditors forming the floating debt as they may deem satisfactory, to close up existing sub-contracts for works, Mr. Wythes having expressed his willingness to relinquish his contract on payment of a balance not exceeding £5,000 due to him, or to stop all further expenditure on the works except what is actually necessary for working the Line, or to cause the continuance of the works to be proceeded with as far as or beyond the Grand Rapids, it being well understood that the basis of any advance of funds by the Great Western Railway for this purpose is that the expenditure shall be wholly under the direction and control of Mr. Brydges and Mr. Reynolds, and that such outlay shall not in any manner be jeopardized by the claims of existing creditors of the Detroit and Milwaukee Company.

Armed with this authority, Mr. Brydges left England on the 14th and arrived in New York on the 26th November, 1857, to take such steps to secure the completion of the Line as, after due investigation and successful arrangements with the creditors of the Detroit and Milwaukee Company, he and Mr. Reynolds might consider most desirable. Immediately on his arrival in America, these gentlemen applied themselves to carry out the orders of the Board; and, on the 28th December, 1857, they addressed their first detailed Report upon the subject to the Board in London, stating the arrangements they had made with the secured creditors for the postponement or payment of their debts and also for the carrying on of the works, so as to effect the immediate completion of the Line.

Whilst Messrs. Brydges and Reynolds were thus occupied in carrying out the objects for which this Loan was made, they also engaged themselves in obtaining security for the repayment of the money. That security was certainly as complete as the Detroit and Milwaukee Company could offer. A third mortgage was effected in favour of three members of the Canadian Board of the Great Western Railway, securing to those gentlemen, as Trustees, the whole of the Detroit and Milwaukee Line, and placing the whole of its affairs in the entire control of Directors, to be nominated from time to time by the Great Western Company, the deed of mortgage being most stringent in its covenants.

About this time, the embarrassed state of the London money market began to interfere so seriously with the contemplated arrangements for advancing money to assist the Detroit and Milwaukee Company, that the Directors wrote to Mr. Brydges the letter of December 18th, 1857, referred to by the Committee, impressing

very strongly upon him the necessity for exercising additional caution, and strictly forbidding him from entering into any engagements on their behalf; this letter did not reach Mr. Brydges until the 9th January following, before which time Messrs. Brydges and Reynolds had made all their arrangements in pursuance of the instructions given to Mr. Brydges when he left England on the 14th November, 1857.

These arrangements being in accordance with the powers granted to Messrs. Brydges and Reynolds, and the money market having materially amended, the Board did not hesitate to confirm them in their letter of the 26th January, 1858.

Your Directors do not deny that they have been disappointed in their expectations from the Detroit and Milwaukee connexion; but it is one thing to be mistaken, and it is quite another thing to have misrepresentation imputed to them.

And it is to be observed, that the bargain, even taking the least favourable view of it, is by no means a disadvantageous one for the Great Western Company. For this advance, and for the advance of £100,000 which was subsequently made, also upon mortgage, the Great Western Company of Canada have secured to themselves the absolute control of this important line of Railway, 185 miles long, running through a thriving and improving territory, and securing to our Line the monopoly of the traffic of the great Western States of America passing in transit through Canada. Your Directors would venture to ask their Shareholders, what railway company would not gladly purchase for £250,000 the entire control over 185 miles of railway, forming an extension of its own system? It must be remembered that ever since the Line was opened we have had a succession of bad harvests, but for which it would have been in a very different position.

Since the opening of the Detroit and Milwaukee Line, it has been computed by our officers in Canada, that it supplies additional traffic to the Great Western Railway which would probably not have been secured without it had been in operation, to the extent shown in the following statement, viz.:

Half-year ending 31st July, 1859.....	59,501 01
" 31st January, 1860.	87,728 44
" 31st July, 1860.....	85,007 64
" 31st January, 1861	115,223 00

They state also that this additional traffic has been carried without the necessity of running any additional trains.

If, instead of securing this Detroit and Milwaukee Line, your Directors had neglected to obtain the control of it, and had allowed it to pass into other hands, what then, they will venture to ask, would have been the position of the Great Western Company? The Grand Trunk would have been in competition with us at Detroit under circumstances of great advantage to that Line. The trade of the northern portion of the State of Michigan, now secured to our Company, might have been carried by the Grand Trunk, and in so far the through traffic of the Great Western would have been materially damaged.

III. *The Charge against your Directors.* But the Committee of Investigation have reported to you that your Directors were bribed by the Detroit and Milwaukee Company to effect these arrangements.

The Committee allege this bribe to have been administered in the form of a gratuity of £2,400 to be paid "to the members of the London Board, and the staff at the office," together with 100 Shares of the Detroit and Milwaukee Company, "fully paid up," which were transferred into the names of "each of the Six Great Western Directors."

The simple facts are these:—

By the arrangement under which the Detroit and Milwaukee Railway was placed in the sole control and management of the Great Western Company, it was agreed that the London Directors of the Great Western Company, as well as Messrs. Brydges and Reynolds in Canada, should become Directors of the Detroit and

Milwaukee Railway in order to protect the interests of your Company. For this purpose it became necessary that they should be duly qualified as Directors of the Detroit and Milwaukee; and, accordingly, 100 Shares were duly transferred into the name of those Directors, for the purpose of affording them a qualification. But it was understood that upon resignation of office each Director would return these Shares to the Company. Accordingly Mr. Hoyes on his retirement from the Detroit and Milwaukee Board in November, 1850, returned these and then his one hundred Shares. Mr. Govan on his retirement did the same, and the executors of Admiral Laws have also returned the Shares formerly held by that gentleman. Messrs. Gill and Cullen, as also Messrs. Brydges and Reynolds, being still Directors of the Detroit and Milwaukee Company of course retain their respective qualifications. Your Directors have further to observe, that the Committee of Investigation were fully acquainted with these facts when they imputed to your Board that the 100 Shares were transferred to and accepted by each member of your Board for a corrupt purpose.

As to the remuneration derived from the Detroit and Milwaukee Company such members of your Board as participated therein had no idea or intention that that Company was to have the benefit of their services, whether as agents or as Directors, without remuneration. The business committed to them occasioned much care and anxiety, and the sums allowed for their services were far below what they must have cost that Company, had any other agency been selected. Whatever difficulties a Railway may be involved in, it has never yet been suggested that those difficulties should be overcome at the sacrifice of gentlemen giving up their time and their labour to the task without remuneration.

It ought to be observed, also, that the facts contradict the inference of the Committee, that these payments could only be made out of the loan. The following figures will show that the Detroit and Milwaukee Company had other resources—

There has been expended for works, including Stations and rolling stock, actually executed or supplied between the time the Great Western Loan was granted and September 30th, 1860.....	£302,541 10 6
Of which the Great Western Loans provide	250,000 0 0
Excess.....	£52,541 10 6

In addition to this excess of expenditure of Capital beyond the amount of the Great Western Railway Loans, very considerable sums have also been paid for Interest on the Detroit and Milwaukee Company's Bonds during 21 years, for old debts due by the Company, for payments to Directors, &c.; these sums amount to about £200,000, and which, together with the above excess of £52,541, have been provided for out of traffic earnings, or advances from Bankers and other sources, and these latter items form the floating debt of the Company, for which it is proposed to issue preference Shares, ranking after the securities held by the Great Western Railway.

Adverting to the sum of £7,900 advanced by Messrs. Brydges and Reynolds to the Port Huron and Milwaukee Railway, it was unquestionably an irregular proceeding, but the Board, at that time, considered that the payment had been made in perfect good faith with the sole desire of carrying out what was supposed to be the policy of this Company, and serving its interests at a very critical period; and as Messrs. Brydges and Reynolds had incurred in this matter a personal responsibility, the London Directors felt called upon to allow the payment, and it was subsequently confirmed by the Canadian Board. The amount was always included in the item of "Amounts due to the Company," and has remained in the general balance-sheet, in the hope that it may be some day recovered.

EXTRACTS

FROM LETTER OF C. J. BRYDGES, APPENDED TO REPORT.

DETROIT AND MILWAUKEE LOANS.

I will now proceed to refer to the Loans to the Detroit and Milwaukee Railway Company.

Not long after I arrived in Canada, my attention was called by those largely interested in this Company, to the benefit which might accrue to our own Line from the traffic of the Northern part of the State of Michigan. Amongst others, Mr. Samuel Laing, M.P., who was then a large shareholder, wrote me, amongst other matters, to this effect, on the 10th Feb., 1854, in which letter he stated that he did so after "several important discussions with our "leading Shareholders" in England, and because he thought it "very desirable to put me confidentially into full possession of the views generally entertained."

When the Grand Trunk Company was first formed, it had the control of a line occupying very nearly the same ground as that now covered by the present Detroit and Milwaukee Railway. My instructions were to watch that district, and to see how far it could be made available to our traffic, and consequently to the exclusion of the Grand Trunk.

The importance of this matter became greatly enhanced when additional lines were commenced to run from Chicago to the Sea Board, passing south of Canada through Pennsylvania. It was clear that such lines must, when opened, divert some of the traffic we then enjoyed, and it became, therefore, a matter of vital policy to seek alliances which would strengthen our hold on the traffic of the Western States of America.

It was also always considered of urgent importance that this Company should not remain entirely dependent upon any one connecting line, but possess an alternative route. The New York Central Company and the Michigan Central Companies when they subscribed towards the construction of this Railway in 1852, naturally sought to bind us exclusively to themselves, and to make our line a mere appendage to their interests, to be used solely as they might deem most advantageous to themselves.

Sound policy dictated that this Company should not be confined by any such trammels, but, on the contrary, whilst continuing to cultivate most friendly relations with its existing allies, that it should seek to extend the sources of its traffic.

It was with such views that as early as 1853, the Detroit and Milwaukee Railway was looked to as an ally that ought not to be allowed to fall into the hands of a rival.

Since that time it has been gradually more and more identified with Great Western interests, and many Shareholders of this Company recognising its value, took an interest in its completion, and by their assistance, considerable sums were raised upon its Bonds in 1856. The amount then subscribed was not sufficient to finish and equip the Line, and in the summer of 1857 the approach of the terrible commercial panic of that year reduced all the incomplete, and many of the opened railways of America, to a state of bankruptcy.

In August of 1857 I was directed by the London Board to proceed to England, to confer with them upon several important matters relating to the affairs of the Company.

For the reasons which I have already stated, I was of opinion that the Detroit and Milwaukee Line was of great importance to this Company, and would prove of vast benefit to its traffic. I am strongly confirmed

in that opinion now. I freely admit that we all took a more sanguine view than subsequent events have for the present justified; but it was then impossible to foresee that America was to be prostrated by a succession of deficient harvests, and the trade of the country brought almost to a dead look.

The Detroit and Milwaukee Company was then in difficulties,—it must obtain assistance from some source,—it was known that the Grand Trunk Company were making arrangements to make Detroit their Western Terminus, and that they would seek to secure the control of all the avenues bringing Western traffic to that point. After having done so much to aid the construction of the Detroit and Milwaukee, and to secure its control, it would have been most improper to permit it at that juncture to slip out of our hands.

It was under these convictions that I fully concurred with the Board, and the great body of our Shareholders, in believing that it was a matter of great importance to aid the Detroit and Milwaukee in its then extremity.

Of course the great object with all parties then was to secure an additional stream of traffic, and notwithstanding all the drawbacks we have had to contend with, the traffic of the Detroit and Milwaukee line now brings an additional business to the Great Western Line, which yields a large return on the amount of the loans, and which there is every reason to believe will not only be greater in future, but that the revenue of the Detroit and Milwaukee itself will so improve, as to enable it ultimately to pay interest on the loan beside.

It must not be forgotten either, in considering this question, that for an outlay of £250,000, we have secured absolute control of a line of Railway 185 miles in length, running through a growing and thriving country, and by its connections west of Lake Michigan, securing to us the great bulk of the through traffic of the States of Wisconsin, Iowa, and Minnesota, the population of which has more than doubled in the last ten years.

Mr. Trowbridge's statement disclosed a state of finances at variance with that made in the letter dated 7th September, 1857, from Mr. Walker and Mr. Stewart to the Board in London. A careful examination, however, showed that a large amount of the debts could be postponed for a long period of time, that the works could be carried on with very small cash payments, and that the loan of £150,000, if judiciously expended, would secure the opening of the Line, which was the object had in view, when it was determined to grant it.

After very great deliberation it was decided, before I left London, to go on and complete the Line, provided I found, when I got to America, that I could, in conjunction with Mr. Reynolds, who had just been appointed Financial Director of this Company, make such arrangements with the creditors as would set free the Rails and other materials required to finish the line, and leave sufficient funds to carry on the works required for its completion.

We did succeed in making the necessary arrangements, and were enabled to open the Line with the means at our disposal.

The discretion was as to being able to make such arrangements with the secured creditors as would enable the Line to be opened with the means at our disposal. These arrangements were concluded on even more favourable terms than was expected when I left England.

The letters addressed to me, prior to the 18th December, 1857, all distinctly reiterated the instructions which I had received before I left.

Immediately on landing at New York I met the two largest creditors and arranged with them as to the postponement of their debts in the manner desired by the Board.

I then went on to Canada, and without delay proceeded, in conjunction with Mr. Reynolds, with the duty entrusted to us relative to the Detroit and Milwaukee Company's debts, and to the rigid scrutiny of their Books.

When I returned to Hamilton on January 9th, 1858, I received Mr. Baker's letter of the 18th December, 1857, twelve days after we had sent off our Report stating the steps which we had taken, and the arrangements made, under the instructions of the Board, for postponing the debts of the Company.

Upon receiving the reports from us, the English Board unanimously confirmed all that we had done as fulfilling "the requirements of the resolution of the General Meeting of Shareholders on 8th October, 1857," and passed a vote of thanks to us for the manner in which we had carried out the duty assigned to us.

I must add that much more than the full amount of the loans for £250,000 has been expended in the completion of the Line, and supplying it with rolling stock, stations, &c., and for work actually executed since the date when the first loan was granted. The actual outlay for new works, &c., entirely irrespective of these payments, interest on bonds, or debts which existed before we assumed control of the Company, has been £302,541, or £52,541 more than the amount of the Loans made by this Company—the latter amount having been provided out of the traffic of the Line, and money raised in America. These facts were fully explained to the Accountants.

MINUTE

(213.)

OF ENGLISH BOARD OF 27th DECEMBER, 1862.

REPLY TO REPORT OF COMMITTEE.

The reply of the Board was then finally settled from the revised complete proof, and approved, and ordered to be signed on behalf of the Board by the President, and to be dated to day.

The reply, with the appendices and copies of correspondence with Messrs. Coleman, Turquand, Youngs & Co., and with Mr. H. H. Cannan, was ordered to be printed without delay, and as many copies as could be got ready to be posted on Saturday, the 30th inst., and the remainder on Monday following.

